

**MINUTES**  
**OF THE**  
**ENVIRONMENTAL PROTECTION COMMISSION**  
**MEETING**

**SEPTEMBER 18, 2000**

**WALLACE STATE OFFICE BUILDING**  
**DES MOINES, IOWA**

## TABLE OF CONTENTS

Call to Order .....	1
Members Present.....	1
Members Absent .....	1
Adoption of Agenda.....	1
APPROVED AS AMENDED .....	1
Approval of Minutes .....	1
APPROVED AS PRESENTED.....	1
Director's Report .....	2
Budget Request for Fiscal Year 2002 .....	2
APPROVED AS PRESENTED.....	5
Sustainable Development Consulting Services for the Iowa Capitol Complex Master Plan – Contract Renewal Approval.....	5
APPROVED AS PRESENTED.....	9
Adopted and Filed Emergency with Notice of Intended Action - Amendments to 567 - Chapter 135, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks. ....	9
APPROVED AS PRESENTED.....	11
Grell Tire Pile Update .....	11
Public Participation.....	12
Mark Lambert .....	12
Susan Heathcote.....	12
Monthly Reports .....	13
INFORMATIONAL ONLY .....	37
Adopted and Filed – Air Quality Rules Chapters 22-25, Updates, Revisions, and Additions. ....	38
Scott Smith.....	38
Jim Ulveling.....	38
Konni Cawiezell.....	39
ITEM PULLED FROM THE AGENDA.....	39
Adopted and Filed - Chapters 40, 41, 42, 43, and 83 - Water Supply and Environmental Laboratory Certification.....	39
APPROVED AS PRESENTED.....	46

State of Iowa Public Drinking Water Program – 1999 Annual Compliance Report .....	46
INFORMATION ONLY.....	47
Contract for space to reduce Wallace Building Congestion .....	47
APPROVED AS PRESENTED.....	49
Air Quality Bureau Lease Renewal .....	49
APPROVED .....	49
Final Rule – Phase I, Triennial Review, Chapter 61, Water Quality Standards. ....	49
APPROVED AS AMENDED.....	55
Petition for Rulemaking – City of Oelwein .....	57
Vic Kane .....	60
APPROVED TEMPORARY DENIAL OF THE PETITION.....	61
Petition for Rulemaking – Carol H Chesterman .....	62
APPROVED TEMPORARY DENIAL OF PETITION .....	66
Demand for Hearing – Clark County; Swine Graphics Enterprises L.P. (ADL IV) .....	66
DECISION UPHELD .....	67
Proposed Contested Case Decision – David Thompson.....	67
DECISION UPHELD .....	67
Referrals to the Attorney General .....	68
REFERRED.....	68
Pilot study to investigate application of radio frequency identification system in hazardous waste tracking process - Contract Approval .....	68
General Discussion .....	69
Next Meeting Dates .....	70
Adjournment .....	70



## MEETING MINUTES

### CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Townsend at 10:00 a.m. on Monday, September 18, 2000, in the Wallace State Office Building, Des Moines, Iowa.

### MEMBERS PRESENT

James Braun  
Randal Giannetto  
Rozanne King  
Kathryn Murphy, Vice-Chair  
Gary Priebe  
Terrance Townsend, Chair  
Rita Venner, Secretary

### MEMBERS ABSENT

Darrell Hanson

Darrell Hanson called to say he would not be able to attend due to a business conflict.  
Randal Giannetto called to say he would be late.

### ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Appointment – Dave Gibbs and Steve Veysey -1:00 PM (Cedar Creek)  
Vic Kane-2:00 PM (City of Olwein)

*Motion was made by Rita Venner to approve the agenda as amended. Seconded by Rozanne King. Motion carried unanimously.*

APPROVED AS AMENDED

### APPROVAL OF MINUTES

*Motion was made by Rozanne King to approve the August minutes. Seconded by Gary Priebe. Motion carried unanimously.*

APPROVED AS PRESENTED

**DIRECTOR'S REPORT**

Lyle Asell, Interim Director informed the Commission he would not be able to stay for the meeting due to a conflict in his schedule. He said the Department had been working on budget items that the Commission would be hearing about later that day. He attended a news conference during the prior week with Iowa State who now has a web page available to farmers to update the soil temperatures by counties for the application of anhydrous ammonia. It is the Department's hope along with Iowa State that this web site will decrease the amount of anhydrous ammonia being applied above 50 degrees. He also attended a meeting about the Raccoon River watershed where several agribusinesses have put together some funding to address nitrogen management in the Raccoon River, which provides the bulk of the water to the city of Des Moines. He handed out a brochure put out by this group, which provides a listing of the organizations and talks about the problems and issues involved.

**BUDGET REQUEST FOR FISCAL YEAR 2002**

Linda Hanson, Division Administrator, Administrative Services Division, presented the following item.

The Iowa Code provides that the EPC approve the Department's budget request as it relates to the Energy and Geological Resources, Environmental Protection, and Land Quality/Waste Management Assistance Divisions. The EPC has co-authority with the NRC to approve the Director's Office and Administrative Services Division (ASD) budget requests.

Guidance from the Department of Management and the Governor's Office regarding FY 02 budget requests stated that state agencies were to submit General Fund request similar to or less than the current year's appropriation. Further guidance indicated that if an agency sought an enhancement package that was to be funded from the General Fund for a new initiative, the agency should designate a source of funding equivalent to one-half of the new funds sought. That is, we would need to reallocated current General Fund monies equal to one-half of the new General Fund dollars being requested.

The new enhancement packages included in this proposed budget are:

- EPD:
1. Restore impaired waters. (TMDLs)
  2. Floodplain program enhancement.
  3. Establish a comprehensive planning process (CPP) for water resources management. (A CPP is federally mandated.)
  4. Educational and technical support to local boards of health.
  5. An Alternative Dispute Resolution program to resolve environmental disputes.

ASD: Keepers of the Land Volunteer Program

**DEPARTMENT OF NATURAL RESOURCES  
FY 02 OPERATIONS BUDGET REQUEST ENHANCEMENT PACKAGES**

Dept Prior	Description	Total	FTE	General Fund	Fish & Wildlife	Other
1	Provide for the federally required development of a total maximum daily load (TMDL) program to restore impaired waters of the state.	\$1,000,000	5.00	\$500,000	\$0	\$500,000
2	Reduce the time it takes to issue a floodplain permit from 6 months to 1 month and eliminate current permit backlogs.	\$200,000	3.00	\$0	\$0	\$200,000
3	Provide for the establishment of the federally mandated comprehensive planning process (CPP) for water resource management.	\$300,000	3.00	\$0	\$0	\$300,000
4	Provide for planned 2nd year expansion of the private lands initiative program.	\$200,000	2.00	\$0	\$200,000	\$0
5	Provide the state park system with at least one park employee at each park year round.	\$150,000	3.00	\$150,000	\$0	\$0
6	Encourage the upgrading of failed or inadequate septic systems by providing technical assistance and promotion of the sewage works revolving loan fund to county health programs.	\$0	2.00	\$0	\$0	\$0
7	Present a Governor's Symposium on Iowa's protected landscapes to prepare a plan for protecting our unique landforms and ecosystems.	\$65,000	0.00	\$65,000	\$0	\$0
8	Provide for a volunteer coordinator responsible for the Keepers of the Land volunteer program.	\$0	1.00	\$0	\$0	\$0
9	Provide for the planning of a natural areas inventory.	\$60,000	0.00	\$60,000	\$0	\$0
10	Utilize alternative dispute resolution to resolve environmental disputes.	\$125,000	1.00	\$125,000	\$0	\$0
<b>Total Enhancement Packages</b>		<b>\$2,100,000</b>	<b>20.00</b>	<b>\$900,000</b>	<b>\$200,000</b>	<b>\$1,000,000</b>

**DEPARTMENT OF NATURAL RESOURCES  
FY 02 APPROPRIATION REQUEST SUMMARY**

APPROPRIATION NAME	FY01 BUDGET	FY02 REQUEST	\$ CHANGE FY01 BUD OVER FY02
<b>GENERAL FUND APPROPRIATIONS</b>			
Department Operations	\$17,842,133	\$18,742,133	\$900,000
Marine Fuel Tax Operations	\$411,311	\$411,311	\$0
Water Quality Protection Fund	\$729,000	\$729,000	\$0
Park Retirements	\$0	\$0	\$0
<b>Total General Fund Appropriation</b>	<b>\$18,982,444</b>	<b>\$19,882,444</b>	<b>\$900,000</b>
<b>INFRASTRUCTURE APPROPRIATIONS</b>			
Destination Park	\$0	\$2,500,000	\$2,500,000
Camping Electric Upgrade	\$0	\$500,000	\$500,000
Restore the Outdoors	\$3,000,000	\$3,000,000	\$0
Private Land Access Program	\$0	\$1,600,000	\$1,600,000
Elinor Bedell State Park Development	\$50,000	\$0	(\$50,000)
Lake Belva Deer Dam Construction	\$200,000	\$0	(\$200,000)
	<b>\$3,250,000</b>	<b>\$7,600,000</b>	<b>\$4,350,000</b>

<b>ENVIRONMENT FIRST FUND</b>			
Resource Enhancement and Protection	\$10,500,000	\$12,500,000	\$2,000,000
Marine Fuel Tax Capitals	\$2,300,000	\$2,300,000	\$0
Lake Dredging Program	\$2,900,000	\$2,900,000	\$0
Recreational Grant Matching Program	\$3,000,000	\$3,000,000	\$0
Tree Planting Grants	\$250,000	\$250,000	\$0
Waste Tires	\$500,000	\$500,000	\$0
Water Quality Monitoring	\$1,950,000	\$3,000,000	\$1,050,000
Floodplain Education	\$200,000	\$200,000	\$0
GIS Data for Watershed Managers	\$195,000	\$195,000	\$0
Keepers of the Land Volunteer Program	\$70,000	\$130,000	\$60,000
Water Quality Permit Review	\$250,000	\$250,000	\$0
Water Quality Planning and Standards	\$372,000	\$0	(\$372,000)
SRF Match Septic Tanks	\$600,000	\$0	(\$600,000)
Lewis and Clark Rural Water Supply	\$60,000	\$0	(\$60,000)
Water Quality TMDL	\$153,000	\$0	(\$153,000)
	\$23,300,000	\$25,225,000	\$1,925,000
<b>NON-GENERAL FUND APPROPRIATIONS</b>			
Fish and Wildlife Operations	\$26,183,240	\$26,383,240	\$200,000
Fish and Wildlife Capitals	\$5,428,000	\$3,137,500	(\$2,290,500)
Tire Fund	\$3,000,000	\$1,500,000	(\$1,500,000)
Groundwater	\$11,839,000	\$11,839,000	\$0
Oil Overcharge	\$600,000	\$430,000	(\$170,000)
UST Administration Match	\$75,000	\$75,000	\$0
Snowmobile Transfer to Fish & Wildlife	\$100,000	\$100,000	\$0
Boat Registration Transfer to Fish & Wildlife	\$1,400,000	\$1,400,000	\$0
Total Non General Fund Appropriations	\$48,625,240	\$44,864,740	(\$3,760,500)
<b>TOTAL</b>	<b>\$94,157,684</b>	<b>\$97,572,184</b>	<b>\$3,414,500</b>
<b>TOTAL DEPARTMENTAL FTE</b>	<b>1050.12</b>	<b>1070.12</b>	<b>20.00</b>
<b>Note: Total Infrastructure</b>	<b>\$26,550,000</b>	<b>\$32,825,000</b>	<b>\$6,275,000</b>

Administration FY 00 Approp.	\$17,842,133	
Less FY00 salary adjustment reduction	(\$9,651)	
Less FY00 vacancy factor adjustment	(\$6,287)	
Less vacancy factor for 2 non GF positions	(\$100,000)	
Administration FY 01 Approp.	\$17,726,195	\$1,015,938

Parks FY 00 Approp.	#REF!	
Less FY00 salary adjustment reduction	(\$6,029)	
Less FY00 vacancy factor adjustment	(\$9,138)	
Less FY00 out of state travel adjustment	(\$3,425)	
Less FY00 support adjustment	(\$43,000)	
Parks FY 01 Approp.	#REF!	#REF!

Forestry FY 00 Approp.	#REF!	
Less FY00 salary adjustment reduction	(\$4,837)	
Less FY00 vacancy factor adjustment	(\$3,284)	
Less FY00 out of state travel adjustment	(\$2,625)	
Less FY00 support adjustment	(\$12,000)	
Forestry FY01 Approp.	#REF!	#REF!

Energy/Geology FY 00 Approp.	#REF!	
Less FY00 salary adjustment reduction	(\$5,482)	
Less FY00 vacancy factor adjustment	(\$3,752)	
Less FY00 out of state travel adjustment	(\$4,825)	
Less FY00 support adjustment	(\$13,000)	
Energy/Geology FY 01 Approp.	#REF!	#REF!



Environment FY 00 Approp.	#REF!	
Less FY00 salary adjustment reduction	(\$15,078)	
Less FY00 vacancy factor adjustment	(\$8,418)	
Less FY00 out of state travel adjustment	(\$10,014)	
Less FY00 support adjustment	(\$32,000)	
Less FY01 unknown cut	(\$1,090,000)	(\$1,090,000)
Plus use of Water Prot. Fund for gen ops		\$300,000
Plus use of Solid Waste Acct for gen ops		\$491,400
Plus use of HHW Account for general ops		\$16,200
Plus use of Ag Funds (Org. Nutrient Fund)		\$100,000
Plus use of Storage Tank Acct. for gen ops		\$32,400
Net Environment Operations Reduction		(\$150,000)
Environment FY 01 Approp.	#REF!	#REF!
Total Cuts	(\$442,845)	

Mark Slatterly, Bureau Chief for Budget and Finance, presented the item to the Commission. He said the Department was asking for approval for the Fiscal Year 02 budget requests. He pointed out the specific details and explained some of the new items and increases. He stated the Department was asking for a total of 20 new full time employees.

Rozanne King asked about the full time employee requests without a request for additional funding.

Mark Slatterly said in many cases the Department has federal funds to cover the employee salary but there is a restriction on the number of full time employees it can have, therefore the Department needs legislative approval to raise the ceiling for the full time employees.

Discussion followed regarding some of the specific requests.

*Motion was made by James Braun to approve as presented. Seconded by Rita Venner. Motion carried unanimously.*

**APPROVED AS PRESENTED**

James Braun arrived at 10:11.

## **SUSTAINABLE DEVELOPMENT CONSULTING SERVICES FOR THE IOWA CAPITOL COMPLEX MASTER PLAN – CONTRACT RENEWAL APPROVAL**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The Department is requesting approval to extend the contract, with the architectural firm of HDR Architecture, Inc. subject to satisfactory negotiation of budget, match and deliverables. HDR Architecture, Inc. is providing sustainable development consulting services on a retainer basis,

with no guaranteed minimum amount, for building, renovation and demolition projects covered under the Iowa Capitol Complex Master Plan and within other state agencies. The contract will not exceed \$75,000.

**Background**

In October of 1999, DNR contracted with HDR Architecture Sustainable Design Services for Sustainable Development Consulting Services at the Capitol Complex. The objective of the contract was to ensure that the Sustainable Design Principles that had been added to the Capitol Complex Master Plan were integrated into upcoming construction projects. The Sustainable Design Principles address ways in which renovation projects and new construction on the Capitol Complex can reduce impact to the environment, building occupants, and the community at large.

The Department of Natural Resources has worked closely with the Department of General Services and project architects to establish “Sustainable Development Principles” as part of the Iowa Capitol Complex Master Plan. The Master Plan provides a framework for complex-wide planning efforts. Based on our research, the State of Iowa is the first state to include these principles in their Master Plan.

The Departments of Natural Resources, HDR Architecture, Inc., and General Services have worked closely with Master Plan project architects to identify opportunities to apply sustainability concepts in all new construction, renovation, and demolition projects on the Complex. Sustainability concepts addressed in the Master Plan include: sustainable site planning, energy efficiency, water safeguarding, materials and resources conservation, indoor air quality, solid waste reduction, and environmental quality.

Several accomplishments have been realized to date including:

1. Facilitating of a one-day Sustainable Design Training Course for Iowa architects, state agency personnel, and solid waste operators.
2. Conducting a Vision Development Session to strategize how best to implement the sustainable principles included in the Master Plan.
3. Adopting the LEED<sup>TM</sup> Green Building Rating System (Leadership in Energy and Environmental Design) as the preferred system of measuring success of green building design on the Capitol Complex. Developing a Pilot Phase to test the use of LEED on current and upcoming projects in order to recognize the benefits as well as potential impacts to cost and schedule.
4. Developing a Sustainable Building Checklist to provide architects and engineers with a means of measuring accordance to the LEED<sup>TM</sup> Rating System.
5. Defining levels of commissioning and negotiating commissioning language and opportunities for Capitol Complex projects. Developing RFP language and supplemental information to support the integration of commissioning on upcoming projects.
6. Partnering with Department of General Services Construction and Design Project Managers to encourage sustainable building principles with other state agency projects.
7. Providing sustainable consultation to the DLR Group regarding the design of the Iowa Judicial Building.

**Project Goals & Objectives:**

The intent of the project is to ensure sustainable development principles included in the Master Plan are followed and technical assistance is provided for all Capitol Complex building, renovation and demolition projects. While the current focus is specific to the Capitol Complex, it is the intent of DNR and the Dept. of General Services that relevant information be shared with other state agencies, so the benefits may be realized on all state buildings. The consultant will be responsible for incorporating sustainability concepts into all projects and will serve as a member of various project teams, as deemed necessary by the Department and project managers. Project teams will be composed of a variety of state agency representatives, contractors and subcontractors dependent on the specific project.

Specific project objectives include:

1. Facilitate project commencement charettes or goal-setting meetings.
2. Provide sustainable construction technical expertise and education to the entire project team which is valuable, timely, practical, and effective.
3. Provide a sustainability design assessment report.
4. Facilitate the actual implementation of the integrated-design approach, which requires all parties involved in the project to speak with each other and understand everyone else's goals and needs from the outset through the project's end.
5. Develop documentation tools for project reviews including: LEED™ tracking, sustainable product selection, and "by phase" checklists.
6. Provide technical support for a green purchasing agent within DGS.
7. Develop and implement outreach and awareness through meetings and presentations with stakeholder groups, web site development, and the development and dissemination of informational literature.
8. Monitor progress toward sustainability goals.
9. Evaluate project success through post-occupancy evaluation of principles and systems.

A long-term benefit from the successful implementation of the sustainable principles will be a transformation of the local building industry into an industry that understands and practices sustainable development. Wide dissemination of this knowledge and experience will also result in the education of the general population to recognize the benefits of sustainability, thereby creating market demand for these practices.

Upon completion of this project, DGS has agreed to include sustainable consulting services funding into all building, renovation and demolition project budgets for legislative approval. Such a commitment will ensure that sustainable development principles are carried out for all future Capitol Complex projects and will be provided and supported in building and renovation projects involving other state agencies.

**Consultant Performance Evaluation**

The consultant is required to submit monthly activity reports to DNR for review. Upon approval of monthly reports, consultant fees will be paid. The consultant will be paid only for hours worked during each month, with no guaranteed minimum amount of work specified per month.

**Selection Process**

The original contract was awarded after fifteen architectural and engineering firms from across the country submitted applications for this RFP. A selection committee comprised of representatives from the DNR Waste Management Assistance Division, DNR Energy Bureau, DGS Design and Construction, and DGS Building Services reviewed all 15 applications, rated the firms, and chose the top four firms for telephone interviews. The four firms interviewed by phone included: HDR Architecture, Inc. (Omaha, NE), Innovative Design (Raleigh, NC), LHB Engineers & Architects (Minneapolis, MN) and Wells Woodburn O'Neil (Des Moines, IA).

**Supporting Agencies:**

Iowa Department of Natural Resources  
Iowa Department of General Services

At this time, the Commission is requested to approve the Department entering into a contract extension with HDR Architecture, Inc. to provide sustainable design and construction consulting services as they relate to the Capitol Complex Master Plan and other applicable construction projects of state agencies.

Liz Christiansen introduced Mary Rankin, a staff person from Recycling Technical Assistance and Michaela Wright from HDR Architecture, Inc. the consultant firm that has been working with the Department of Natural Resources and General Services on developing sustainable design principles and briefed the Commission on the details of the contract. She asked Michaela Wright give an update of the progress made over the past year and talk about what the contract would cover over the next year.

Michaela Wright said she would like to commend the State for taking such an effort. This is something that is happening on a national basis. There are efforts being made on the Federal level down to the individual city levels of government to develop sustainable design requirements of some type. The first thing they did when they began last year was to look at what the State had done so far. They looked at the sustainable design principles that had been written into the Capital Complex Master Plan, they found the plan outlined guidelines or suggestions but did not contain standards or requirements for sustainable design. They then met with members of DNR and General Services and looked at how best to make the suggestions contained in the Master Plan actual practice within the context of the existing design and construction process. They developed some new tools and resources to help staff and local architectural engineers integrate sustainable design in a cost-effective manner that was non-intrusive to the way they currently do business. They are looking take this plan a step further over then next year by developing a pilot project using a national green building rating system called LEED, which stands for Leadership in Energy and Environmental Design. They would also like to begin a pilot commissioning plan, which would assure the building owner that a building is designed, constructed, and operated as intended. They are also looking to integrate the renovation projects that go on in the Capitol Complex.

Rozanne King asked what amount the contract had been for last year.

Liz Christiansen answered that it had been for the same amount of 75,000, and that if the Commission would like to look at the allocation of hours for that contract she would supply a copy for them.

Gary Priebe asked if this project was available to anyone doing construction or if it was for Capitol Complex.

Liz Christiansen said it was targeted to the Capital Complex Master Plan, but their goal was to extend it to all state construction projects. She said another idea brought up by Director Asell was to get involved with teaching the architecture students at ISU about sustainable building practices.

*Motion was made by Rita Venner to approve the contract. Seconded by Kathryn Murphy. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**ADOPTED AND FILED EMERGENCY WITH NOTICE OF INTENDED ACTION – AMENDMENTS TO 567 – CHAPTER 135, TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The Director requests the Commission to adopt emergency and give notice of intended action for the enclosed amendments to Chapter 135. The amendments establish when the analysis for methyl tertiary-butyl ether (MTBE) in soil and water samples collected as part of investigations and corrective action at underground storage tank sites may be terminated.

Rule 135.19 was adopted last year to meet the requirements of Section 15, paragraph 4“c” of House File 772 which required analyses for MTBE as part of the soil and groundwater monitoring being conducted at contaminated underground storage tank sites. The department provided a report with findings and recommendations of the testing to the 2000 Session of the General Assembly.

The proposed amendments allow testing for MTBE on soil and water samples to stop at sites when MTBE is not found during Tier 2 or Tier 3 investigations or current site monitoring. The department believes it is in the public interest to reduce the analytical cost of analysis and not to go through notice and public participation prior to implementing the amendment. Providing Notice of Intended Action subsequent to the emergency adoption will allow public comment without delaying the benefits of the amendment.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission proposes to amend Chapter 135, "Technical Standards and Corrective Action Requirements of Owners and Operators of Underground Storage Tanks," Iowa Administrative Code by amending subrule 135.19(3).

This amendment was Adopted and Filed Emergency effective September 29, 2000 and is published herein as **ARC \*\*\*\*\***. The subrule establishes the requirements for analyzing soil and groundwater samples for the presence of methyl-tertiary-butyl ether (MTBE) as required by 1999 Iowa Acts, H.F. 772, section 15(4)“c”. The amendment provides for stopping MTBE analysis at sites showing no MTBE present during Tier 2 or Tier 3 assessments, site monitoring or site remediation monitoring. The content of that submission is incorporated into this notice by reference.

The Department is providing an opportunity for public comment to the emergency adopted rule. Any interested person may submit written comments on the proposed rule amendment on or before November 7, 2000. Written comments should be sent to the Iowa Department of Natural Resources, Attn. Jim Humeston, Wallace State Office Building, Des Moines, IA. 50319, Fax 515-281-8895, or e-mail Jim.Humeston@dnr.state.ia.us.

This rule may have an impact on small businesses as provided in Iowa Code section 17A.31.

#### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

##### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission proposes to amend Chapter 135, "Technical Standards and Corrective Action Requirements of Owners and Operators of Underground Storage Tanks," Iowa Administrative Code by amending subrule 135.19(3).

Subrule 135.19(3) provides when sampling for methyl tertiary-butyl ether (MTBE) is not required. These amendments add new conditions under which owners and operators can stop analyzing for MTBE. MTBE analysis would no longer be required after it is not found in soil and groundwater samples during RBCA Tier 1, Tier 2 or Tier 3 assessments and ongoing monitoring.

MTBE analysis significantly increases the cost of analyzing a sample. The rule assumes one or more sampling events in which no MTBE has been found. The Iowa UST Fund pays for most sampling costs in the state.

In compliance with Iowa Code section 17A.4(2), the commission finds that notice and public participation are unnecessary and contrary to the public interest. The amendment removes the expense of analyzing for MTBE after analysis shows it is not present at the site.

In compliance with Iowa Code section 17A.5(2)“b”(2), the Commission finds that this rule confers a benefit and removes a restriction on the public such that the normal effective date of the amendment should be waived and this amendment should be effective upon filing.

This amendment is also published herein under Notice of Intended Action as **ARC** to allow for public comment. This emergency filing permits the commission to implement the new provision of the law.

This rule may have an impact on small businesses as provided in Iowa Code section 17A.31.

The following amendments become effective upon filing.

ITEM 1. Amend subrule 135.19(3) by adding the following new paragraphs:

- c. If prior analysis at a site under 135.19(2) has not shown MTBE present in soil or groundwater.
- d. If the department determines MTBE analysis is no longer needed at a site.

Liz Christiansen said the Department is requesting the Commission to adopt emergency rules and give notice for intended action regarding MTBE testing. She said the idea is to amend the rules to no longer require testing on those sites where MTBE has not been found in tier two or tier three testing. She said Jim Humeston, Lead Worker Underground Storage Tanks, would answer any questions the Commission would have.

Jim Humeston added that if previous testing shows no sign of MTBE's this rule would terminate the monitoring requirements for that site.

Liz Christiansen asked if the Department planned to have public meetings on this proposed rule change.

Jim Humeston said they have established a public comment period where people can send their comments into the department, but there would be no public hearing.

Discussion followed regarding the specific items in the rule.

<i>Motion was made by Kathryn Murphy to approve the Adoption and Filed Emergency Rule. Seconded by Rozanne King. Motion carried unanimously.</i>
--

<b>APPROVED AS PRESENTED</b>
------------------------------

## **GRELL TIRE PILE UPDATE**

Liz Christiansen said she would like to bring the Commission up to date on the Grell tire site and the mosquito situation. She said the Department had been working with the City of Fort Dodge, the Entomologist at Iowa State University Dr. Wayne Rowley and with Dr. Russell Currier from the Department of Public Health. It has been recommended by Dr. Rowley and Dr. Currier that the site be treated to reduce the population of mosquitoes, especially the female population who will be laying eggs to hatch in the spring. The DNR has been working with the city to determine the cost share on the treatment. They will be picking up about 5% of the \$53,000 cost. The treatment is expected to have an ongoing impact over the next twelve months. The city will ensure access to the site and provide adequate means to protect the resident in case of an emergency. A firm that was recommended to the DNR by Dr. Rowley and Dr. Currier will be doing the treatment. It is the same firm being used by New York State in connection with the West Nile Virus. The treatment will be paid for from the tire fund.

Discussion followed regarding the specific details of the treatment process.

Mel Pins said their main goal at this time is to minimize the mosquito threat as soon as possible. If the city is willing to work with owner and the owner so far has been agreeable to this, we will get this problem solved now. Afterward the DNR does want to proceed with the cleanup, however they will need participation in a positive manner from the party who owns the site. Currently the owner has not complied with the requirements of the court.

Liz Christiansen stated it was important to note that in their capturing of mosquitoes and their testing, Dr. Rowley and Dr. Currier found no virus in the mosquito population, however they are noxious mosquitoes and the cleanup of this site will take a considerable amount of time, so the hope is to get some lasting impact from this treatment. She said that it was important to keep in mind that even though the West Nile Virus is not yet in our state, the virus puts a new light on our efforts to clean up tires. We have some very large tire piles remaining in this State but in order to reduce the noxious mosquito population it is important to look at managing all tires, not just the piles with numbers in the 10's of thousands but piles that number in the 10's.

## **PUBLIC PARTICIPATION**

Chairman Terrance Townsend called for public participation at 10:48 a.m.

### **MARK LAMBERT**

Mark Lambert, Executive Director of Iowa Environmental Council, said he would like to comment on South Cedar Creek issue. The Environmental Council took a look at the data that the Hawkeye Fly Fishing Association has put together and was impressed by it. On the basis of that they would like to encourage the Commission not to proceed with that portion of the Water Quality standards that would downgrade a segment of South Cedar Creek from a Class B cold water designation to a Class B limited resource designation. He said the Environmental Council felt that the overall Water Quality standards were good and they would like to congratulate the DNR on the fine job they did in putting them together. However on the South Cedar Creek issue this segment is below the city of Garnavillo and there has been some discussion about the city and their ongoing difficulty in meeting the water quality standards. He said the solution to the problem was not to downgrade the designation of the stream but to help the city of Garnavillo deal with their problems and see if the creek returns to its previous status. He said they would like to encourage the DNR to seek additional resources from the legislature to help small communities in dealing with the wastewater treatment problems.

### **SUSAN HEATHCOTE**

Susan Heathcote, stated she wanted to comment on the changes in the basis for criteria in the Class C or drinking water standard. She said one of the changes would affect the criteria for a number of toxic contaminants including the herbicide atrazine. She said the Department was proposing to change the standard from an acute criterion to the basis of MCL. She said that although this change would probably be an accurate standard there are implications that come with that change, in particular for atrazine, there is some concern by the Iowa Environmental Council as to whether or not that will be adequate protection. To explain why there is some concern, in the last round of the impaired waters list that was prepared in 1998 this issue did



come up and there were three water bodies that were listed as impaired for atrazine. An acute criterion is considered a violation, while an MCL depends on whether it is an acute condition or a chronic condition. Because atrazine was established as a hazard due to a concern for cancer, which is a long-term exposure situation, a one-time exceedence would not be considered a violation. The Iowa Environmental Council feels that there is good documentation of potential health effects that are acute. There has been some research regarding the atrazine in the Rathbun water supply and the higher incidence of birth defects, although these are difficult studies to draw conclusions from there are reasons to believe that there could be acute affects from atrazine.

She said there was some concern regarding Class C waters that have at one time served as drinking water sources, and are not currently serving that purpose, having their designations changed to reflect the current use, thus removing them from the Drinking Water List. She stated The Environmental Council felt that it was an issue that deserved some broad input. She stated that we should be looking at the water quality standards from a future perspective and we need some projections as to what our needs will be.

James Braun asked if the EPA regulate atrazine as acute or MCL.

Ms. Heathcote said the standard for drinking water are set by EPA and it is a chronic criteria. Water quality standards for surface waters are State standards but those standards have to be acceptable to the EPA. She said she has spoken to them on this issue and they had no objection to us designating it as acute.

James Braun asked if the IEC had concern about any of the other changes.

Susan Heathcote said that the IEC is satisfied with the job that DNR is doing and feel that for the most part they will be increasing the level of protection for our water supply.

## MONTHLY REPORTS

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Contested Case Status Report

RULEMAKING STATUS REPORT  
September 1, 2000

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	ARC #	REVIEW COMMITTEE	HEARING	RULES COMMENT PERIOD	FINAL SUMMARY TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	ARC #	RULES REVIEW COMMITTEE	RULE EFFECTIVE
1. Ch. 22 - 25 - Air Quality Rules	5/15/00	6/14/00	9985A	7/11/00	7/20/00	7/28/00	9/18/00	*9/18/00	*10/18/00		*11/06/00	*10/25/00

2. Ch. 40, 41, 42, 43, 81, 83 - Water Supply, Operator Certification and Environmental Lab Certification	5/15/00	6/14/00	9888A	7/11/00	7/6, 7/7, 7/14, 7/18 7/19/00	7/26/00	9/18/00	*9/18/00	*10/18/00		*11/06/00	*10/25/00
3. Ch. 61 - WQ Standards	4/17/00	5/17/00	9839A	6/13/00	6/08, 6/12, 6/15, 6/16/00	6/30/00	9/18/00	*9/18/00	*10/18/00		*11/06/00	*10/25/00
4. Ch. 64 - Wastewater Construction and Operation Permits	7/17/00	8/09/00	0052B	9/12/00	9/01/00	9/01/00	*11/20/00	*11/20/00	*12/13/00		*1/10/01	*1/17/01
5. Ch. 64 - Wastewater Construction and Operation Permits							7/17/00	7/17/00	8/09/00	0051B	9/12/00	7/21/00
6. Ch. 93 - On-Site Wastewater Treatment State Revolving Fund	6/19/00	*9/20/00		*10/10/00	*10/11-13 17-19/00	*10/24/00	*11/20/00	*11/20/00	*12/13/00		*1/10/01	*1/17/01

Monthly Variance Report						
Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	Cargill, Inc.-Eddyville	Air Quality		Permit Requirements	Approved	08/22/00
2	Collis, Inc.-Clinton	Air Quality		Permit Requirements	Approved	08/02/00
3	Granada Gardens Mobile Home Park-Dubuque County	Wastewater Construction	Hart-Frederick Consultants	Curtain Wall	Approved	08/11/00
4	Story County Bridge Over South Skunk River Near Cambridge	Flood Plain	Shuck-Britson, Inc.	Freeboard	Approved	08/23/00
5	Everly, City of	Watersupply Construction	Kuehl & Payer, Ltd.	Installation Procedures	Approved	08/10/00
6	Floyd Convenience Store-Floyd County	Watersupply Construction	Van Winkle-Jacob Engineering, Inc.	Construction Materials	Approved	08/09/00
7	Grimes, City of	Watersupply Construction	Fox Engineering Associates, Inc.	Design Basis-(12 Design Sections)	Approved	08/11/00
8	Mondamin, City of	Watersupply Construction	Veenstra & Kimm, Inc.	Construction Materials	Approved	08/01/00
9	Twin Bridges Park-Delaware County	Watersupply Construction	Gibbs Engineering & Surveying	Design Basis	Approved	08/14/00

Substance					Mode					
Month	Total Incidents	Agri-chemical	Petroleum Products	Other Chemicals	Transport	Fixed Facility	Pipeline	Railroad	Fire	Other
October	62 (50)	6 (7)	48 (25)	5 (14)	32 (24)	23 (18)	1 (2)	2 (0)	0 (0)	4 (6)
November	64 (56)	10 (7)	38 (35)	15 (7)	26 (25)	30 (28)	1 (2)	3 (0)	1 (0)	3 (1)
December	67 (35)	10 (4)	40 (20)	17 (7)	23 (12)	34 (18)	1 (2)	4 (0)	0 (0)	5 (3)
January	41 (39)	4 (0)	27 (18)	9 (8)	13 (7)	24 (30)	1 (0)	0 (0)	0 (0)	3 (2)
February	65 (54)	3 (3)	32 (28)	30 (9)	14 (22)	48 (29)	0 (1)	0 (0)	1 (0)	2 (2)
March	96 (56)	20 (10)	64 (33)	12 (5)	43 (24)	45 (24)	2 (1)	0 (0)	0 (0)	6 (7)
April	112 (81)	39 (23)	42 (37)	31 (8)	38 (40)	63 (36)	0 (1)	0 (0)	3 (0)	8 (4)
May	97 (88)	25 (33)	59 (42)	13 (5)	38 (47)	53 (32)	0 (3)	2 (0)	0 (0)	4 (6)
June	96 (79)	11 (20)	62 (46)	23 (2)	27 (37)	59 (37)	1 (3)	0 (0)	0 (0)	9 (2)
July	99 (74)	4 (8)	76 (47)	19 (7)	21 (28)	66 (41)	3 (2)	5 (0)	2 (0)	2 (3)

## Environmental Protection Commission Minutes

September 2000

August	68 (64)	3 (4)	51 (48)	14 (5)	19 (17)	43 (43)	0 (2)	1 (0)	0 (0)	5 (2)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
<b>Total</b>	867 (676)	135 (119)	539 (379)	188 (77)	294 (283)	488 (336)	10 (19)	17 (0)	7 (0)	51 (38)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
7	14	9	5	20	13

Month	Total	Feedlot	Confinement	Land Application	Transport	Hog	Cattle	Fowl	Other	Surface Water Impacts
October	6 (0)	0 (0)	3 (0)	2 (0)	1 (0)	6 (0)	0 (0)	0 (0)	0 (0)	2 (0)
November	4 (0)	0 (0)	2 (0)	1 (0)	1 (0)	3 (0)	1 (0)	0 (0)	0 (0)	0 (0)
December	2 (0)	0 (0)	1 (0)	1 (0)	0 (0)	1 (0)	1 (0)	0 (0)	0 (0)	0 (0)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	1 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	1 (0)	0 (0)	1 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	1 (0)	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	1 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	2 (0)	0 (0)	2 (0)	0 (0)	0 (0)	2 (0)	0 (0)	0 (0)	0 (0)	1 (0)
August	1 (0)	1 (0)	0 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	1 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
<b>Total</b>	18 (0)	1 (0)	10 (0)	4 (0)	0 (0)	14 (0)	3 (0)	0 (0)	0 (0)	5 (0)

(numbers in parentheses for the same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
0	0	0	0	0	1

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Sparboe Iowa Corporation, Clinton Co. (2)	Animal Feeding Operation	Prohibited Discharge – Confinement	Order/Penalty \$3,000	8/11/00
Coralville, City of (6)	Wastewater	Compliance Schedule	Amended Order	8/11/00
Heritage Residence Chickasaw Co. (1)	Drinking Water	MCL – Bacteria;	Order	8/11/00
Agri Grain Marketing, Dubuque (1)	Air Quality	Fugitive Dust	Order/Penalty \$3,000	8/14/00
Mill Creek Highlands Development L.C.; Clinton Engr. Co., Clinton Co. (6)	Wastewater	Stormwater – Operation Without Permit; Pollution Prevention Plan Violation	Order/Penalty \$10,000	8/14/00
Osterdock Store, Guttenberg (1)	Drinking Water	Construction Without Permit; Monitoring/Reporting – Bacteria; MCL – Bacteria; Public Notice	Order/Penalty \$500	8/14/00

## September 2000

## Environmental Protection Commission Minutes

Interstate Grain Inc., Mason City (2)	Air Quality	Construction Without permit	Order/Penalty \$500	8/16/00
Riley Industrial Painting, Inc., Burlington (6)	Air Quality	Operation Without Permit	Order/Penalty \$10,000	8/16/00
Food Waste Solutions L.L.C., Anamosa (1)	Drinking Water	Monitoring/Reporting – Bacteria, Organics; Compliance Schedule; MCL – Bacteria; Public Notice.	Order/Penalty \$2,500	8/16/00
Mt. Joy Mobile Home Park, Davenport (6)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate, Other Inorganics	Order/Penalty \$1,500	8/22/00
BTR Antivibration Systems, Inc., d/b/a BTR Sealing Systems North America, Iowa Operations, Keokuk (6)	Air Quality	Construction Without Permit	Consent Amendment	8/28/00
Godbersen-Smith Construction Co. d/b/a GOMACO Corp., Ida Grove (3)	Air Quality	Construction Without Permit	Consent Amendment	8/28/00
Friesen of Iowa, Inc., Storm Lake (2)	Air Quality	Construction Without Permit	Consent Order \$10,000	8/28/00
CGB Printing Company aka Rock Communications Ltd., Newton (5)	Air Quality	Emission Standards	Consent Amendment	8/28/00
Dodgen Industries, Inc. d/b/a Cabinet Masters, Inc., Humboldt (2)	Air Quality	Emission Standards	Consent Order \$6,000	8/28/00
The Farmers Co-operative Society d/b/a Wesley Coop, Wesley (2)	Air Quality	Open Burning	Order/Penalty \$5,000	8/28/00
Kinderland, Inc., Dubuque (1)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate, Other Inorganics; Public Notice	Order/Penalty \$1,500	8/30/00
Casey's General Stores, Inc. Wauke (5)	Underground Tank	Construction Deficiencies	Order/Penalty \$3,800	8/30/00
Black Hawk County Sanitary Landfill, Black Hawk Co. (1)	Solid Waste	Cover Violations; Illegal Disposal	Order/Penalty \$8,000	8/30/00
Brecht Enterprises, Inc. Iowa Co. (6)	Solid Waste Air Quality	Illegal Disposal Open Burning	Order/Penalty \$4,000	8/30/00
Winter Mobile Home Park, New Hampton (1)	Drinking Water	Operation Without Permit	Order/Penalty \$2,500	8/30/00
Rimade, Inc. Manning (4)	Solid Waste Wastewater	Illegal Disposal; Stormwater – Operation Without Permit	Consent Amendment	8/30/00
Charles City, City of (2)	Wastewater	Discharge Limits; Pretreatment	Order/Penalty \$5,000	8/30/00
All-States Quality Foods, L.P., Charles City (2)	Wastewater	Pretreatment	Order/Penalty \$10,000	8/30/00

## Environmental Protection Commission Minutes

September 2000

Envirobest, Inc., Cedar Rapids (1)	Air Quality	Asbestos	Order/Penalty \$3,000	8/30/00
St. John's Lutheran Church, Monticello (1)	Drinking Water	MCL – Bacteria	Order	8/31/00
Whispering Oaks, Solon (6)	Drinking Water	MCL – Bacteria	Order	8/31/00

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Bill Dettman d/b/a Dettman Oil Co. (Fonda)			9-15-94
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Keith Owens and Howard Maurer (Wilton)	UT	3,100	1-01-96
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
* Vernon Kinsinger d/b/a K & K Sanitation (Washington Co.)	AQ/SW	8,830	6-05-97
Sale-R-Villa Const., Inc. (Perry)	AQ	7,000	4-28-98
Larry Cope, Susan E. Cope, Bill VanPelt (Carlisle)	WW	1,500	5-05-98
Leland DeWitt (Louisa Co.)	AQ/SW	3,000	11-21-98
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
* Home Asbestos & Lead Abatement Services (Johnston)	AQ	1,150	6-15-99
* Orrie's Supper Club, Inc. (Hudson)	WS	390	6-01-99
Charlie's Supper Club (Algona)	WS	100	7-01-99
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	7-26-99
Capitol Oil Co. (Oxford)	UT	6,560	10-09-99
* Randy Foth d/b/a Foth Lumber Co. (Livermore)	AQ	1,000	11-01-99
* Robert Simon (Dubuque Co.)	AQ/SW	2,000	11-01-99
* Hidden Valley Mobile Home Park (Washington)	WW	200	12-12-99
* Minifarm Acres, Inc. (Cedar Co.)	WS	375	1-29-99
James Harter (Fairfield)	WW	1,800	1-29-00
Dorchester Supper Club (Dorchester)	WS	100	3-08-00
10 <sup>th</sup> Hole Food & Spirits (Calamus)	WS	1,000	3-14-00
Jerry L. Roney (Huxley)	UT	2,000	3-25-00
D/S Land Company, L.C. d/b/a The Outer Edge (Mason City)	WS	300	4-25-00
Plain Salvage Inc. (Sac City)	AQ/SW	10,000	5-12-00
Weber Construction, Inc. (Cascade)	AQ	4,000	5-26-00
Steve Friesth (Webster Co.)	AQ/SW	4,000	6-05-00
The Barn (Sherrill)	WS	1,000	6-06-00
Country Hills Water Corporation (Peosta)	WS	500	6-12-00
Martin Marietta Materials, Inc. (Ames)	AQ	5,000	6-12-00
Don Casterline; Myron Casterline (Van Wert)	UT	2,000	6-14-00
Wendy Oaks Mobile Home Park (Cedar Rapids)	WS	1,500	6-20-00
* Scott Paulson (Forest City)	AQ/SW	250	7-01-00
* Steven Reimers (Schaller)	AQ/SW	1,425	8-01-00
Western Iowa Limestone, Inc. (Logan)	AQ	500	7-14-00
Iowa Waste Systems, Inc.	SW	7,500	7-15-00
* Ben Haven Mobile Home Park	WS	150	9-01-00
* Holland Contracting Corp. (Forest City)	AQ	500	9-01-00
* R.V. Hopkins, Inc. (Davenport)	AQ	4,700	9-16-00
* Rimade, Inc. (Manning)	SW/WW	1,000	8-01-00
#*Gary Frana (Winneshek Co.)	AFO	2,500	8-20-00
Crestview Mobile Home Park (Ames)	WW	10,000	8-30-00
Heinz U.S.A. (Muscatine)	AQ	5,000	8-30-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Burlington Northern Santa Fe Railroad (Burlington)	AQ	4,000	8-30-00
Robert Watson (Griswold)	UT	1,700	9-03-00
Coralville Lake Terrace Assoc. (Johnson Co.)	WS	1,500	9-05-00
Kathy's Korner (Dewar)	WS	500	9-06-00

Larrabee, City of	WS	250	9-11-00
John Smith d/b/a Four-Corners Tap (Lockridge)	AQ/SW	1,000	9-24-00
Gomaco Corporation (Ida Grove)	AQ	5,000	9-27-00
# Thomas and Jane Kronlage (Coggon)	AFO	3,000	10-16-00
# Rustad Farms, Inc. (Butler Co.)	AFO	3,000	10-06-00
# Sparboe Iowa Corporation (Franklin Co.)	AFO	3,000	10-14-00
Osterdock Store (Guttenberg)	WS	500	10-16-00
Agri Grain Marketing (Dubuque)	AQ	3,000	10-16-00
Mill Creek Highlands Development L.C.; Clinton Engineering Co., Inc. (Clinton Co.)	WW	10,000	10-16-00
Riley Industrial Painting, Inc. (Burlington)	AQ	10,000	10-20-00
Food Waste Solutions LLC (Anamosa)	WS	2,500	10-18-00
Plum Enterprises; Clinton Graham (Polk Co.)	SW	1,000	----
Deer Ridge Estates (Ottumwa)	WS	100	----
# Boomsma's, Inc. (Hardin Co.)	AFO	6,000	----
Mt. Joy Mobile Home Park (Davenport)	WS	1,500	----
Kinderland, Inc. (Dubuque)	WS	1,500	----
Winter Mobile Home Park (Chickasaw Co.)	WS	2,500	----
Envirobest, Inc. (Ft. Dodge)	AQ	3,000	----
Brecht Enterprises, Inc. (Iowa Co.)	AQ/SW	4,000	----
Black Hawk County Sanitary Landfill	SW	8,000	----
Casey's General Stores, Inc. (Waukee)	UT	3,800	----
All-States Quality Foods, L.P. (Charles City)	WW	10,000	----
Charles City, City of	WW	5,000	----
Salem Lutheran Church (Correctionville)	WS	500	----
<b>TOTAL</b>		<b>224,105</b>	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
ESCORP Associates Ltd.; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800	
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
Wunschel Oil, et.al. (Battle Creek)	UT	4,400	12-23-96
Tire-Tech Environmental Systems, Inc. (Muscatine)	SW/WW	2,500	
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Russell Barkema d/b/a Barkema Construction (Wright Co.)	AQ/SW	1,000	3-31-98
Action Jack's Paintball Park (Polk Co.)	SW/FP	10,000	11-07-98
#*Harold Unternahrer (Washington Co.)	AFO	700	5-01-99
Hofer's Danceland Ballroom (Walford)	WS	3,200	4-19-97
Hofer's Danceland Ballroom (Walford)	WS	100	4-23-99
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	12-19-98
Spillway Supper Club (Harpers Ferry)	WS	100	3-14-99

## Environmental Protection Commission Minutes

September 2000

Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800	3-06-99
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Jim Walker (Johnson Co.)	AQ/SW	3,000	2-14-99
Iowa Millenium Investors, LLC (Sumner)	UT	4,000	10-12-99
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	10,000	
Peter Orth f/d/b/a Strauss Bros. Conoco (Burlington)	UT	9,400	1-31-00
Ralene Hawkins d/b/a R.J. Express Salvage & Demolition; Clara Lindstadt (Des Moines Co.)	AQ/SW	1,000	7-01-00
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000	1-23-00
Dennis Sharkey, Sr.; Dennis Sharkey, Jr. (Dubuque Co.)	AQ/SW	2,250	2-11-00
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000	5-26-00
<b>TOTAL</b>		<b>146,804</b>	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Frank Hulshizer (Benton Co.)	SW	500
Tom Wiseman (Sheffield)	UT	3,500
William Jensen d/b/a B & B Tire & Oil Co. (Avoca)(8LT088)	UT	2,300
American Coals Corporation - Site #5 (Bussey)	AQ/SW	10,000
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Titan Wheel International, Inc. (Walcott)	WW	10,000
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Leonard C. Page (Adams Co.)	SW	3,000
Boyer Valley Company (Arion)	WW	8,000
Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Donald J. Foreman d/b/a D & R Feedlots (Woodbury Co.)	WW	3,000
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Clarence, City of	WW	3,000
Dallas County Care Facility (Adel)	WW	2,500
Gary Walker (Montgomery Co.)	AQ/SW	3,000
Margaret and Gene Palmersheim d/b/a G & M Service Mart (Greeley)	UT	1,500
#Boomsma Egg Site #1; A.J. DeCoster (Wright Co.)	WW	1,000
Richard Sprague (Tripoli)	AQ/SW	5,000
Bellevue Golf Club, Inc. (Bellevue)	WS	300
Cliff's Place, Inc. (Waverly)	WS	1,500
Brittany Estates Addition (Manchester)	WS	4,000
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000
Biovance Technologies, Inc. (Oskaloosa)	AQ	4,000
Keokuk Steel Castings Co., Inc. (Keokuk)	AQ	5,000
# Austin J. DeCoster (Nursery 8) (Wright Co.)	WW	1,000
Sac City, City of	WW	4,000
Pathway Christian School (Kalona)	WS	500
Wiese Corporation (Perry)	AQ	5,000
West Liberty, City of	WW	5,000
Robert Diehl (Clarke Co.)	WW/WS	5,000
Duane Hanson d/b/a Cedar Valley Tire Recycling (Allamakee Co.)	SW	5,000
Keokuk Steel Castings Co., Inc. (Keokuk)	AQ	10,000
# Bernadette Ryan (Delaware Co.)	AFO	3,000
Lonnie King (Marion Co.)	AQ/SW	1,600
West Union Cooperative Co. (West Union)	WW	10,000
Country Terrace Mobile Home Court (Boone)	WW	5,000
Country Terrace Mobile Home Court (Boone)	WS	5,000
Dayton, City of	WW	10,000
# Peter Bockenstedt (Dubuque Co.)	AFO	3,000
# Dan Gotto (Dubuque Co.)	AFO	3,000

# Matthew Daly (Dubuque Co.)	AFO	3,000
Westside Park for Mobile Homes (Burlington)	WW	7,000
Gerald and Judith Vens (Scott Co.)	FP	5,000
Snap-On Tools Company (Algona)	AQ	1,500
Hargrave-McEleney, Inc. (Iowa City)	WS	1,000
Affordable Asbestos Removal, Inc.; Jeffry Intlekofer (Ft. Madison)	AQ	10,000
Muscatine County Sanitary Landfill	SW	10,000
#Eugene P. Reed, Ltd. (Henry Co.)	AFO	1,500
Shine Bros. Inc. (Spencer)	AQ	10,000
Julie Rowe d/b/a Jewell's Food & Spirits (Troy Mills)	WS	1,000
Rollin McAdams d/b/a McAdams Demolition Co. (Davenport)	AQ	3,000
Fernald Water System	WS	10,000
Lorene Logue; Lester Holmes; Todd Holmes (Lucas County)	AQ	4,500
Sac County Golf and Country Club (Wall Lake)	WS	3,000
Michael Roberts (Page Co.)	AQ	1,500
Osceola, City of	WW	5,000
Rocky Knoll Mobile Home Park (Forest City)	WS	3,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
GK Properties, Inc.; Greenwood Hills Estates, L.C. (Dallas Co.)	WW	6,500
Oakview Construction, Inc. (Red Oak)	AQ/SW	2,000
Omaha Cold Storage Terminals, Inc. (Ft. Dodge)	WW	1,500
Edward Degeus (Britt)	AQ	3,000
Fort Dodge, City of	WS	5,000
Aaron Berry (Pottawattamie Co.)	AQ/SW	1,500
Pine Creek Par 31 Golf Course (Mason City)	WS	1,250
Dave Thompson (Hancock Co.)	SW	2,000
Wendall Abkes (Butler Co.)	AQ/SW	3,000
Benefit Water District #2 (Boone Co.)	WS	2,500
Minsa Corporation (Red Oak)	WW	10,000
Dennis Severson d/b/a Huxley Dry Cleaners (Huxley)	AQ	4,500
Bruening Rock Products, Inc. (Decorah)	WW	8,000
Minnesota Rubber Company (Mason City)	AQ	3,000
New Virginia Sanitary District (New Virginia)	WW	5,000
Meadowknolls Addition (Linn Co.)	WS	1,500
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000
Ainsworth, City of	WW	1,000
Hawkeye Leisure Trailers, Limited (Humboldt)	AQ	2,000
Caraustar Paperboard Co. d/b/a Tama Paperboard (Tama)	AQ	1,000
Delaware County Conservation Board	WS	1,000
LT Tap (Waucoma)	WS	500
Kirk Latta (Wilton)	WS	10,000
IBP, Inc. (Columbus Junction)	SW	1,000
Iowa State University Heating Plant (Ames)	AQ	1,000
Iowa Air National Guard – 185 <sup>th</sup> Fighter Wing (Sioux City)	AQ	1,000
Minnesota Mining and Manufacturing d/b/a 3M (Knoxville)	AQ	1,000
Winter Mobile Home Park (New Hampton)	WS	1,000
John Deere Waterloo Works – DDS (Waterloo)	AQ	7,000
Alliant Energy Corp. d/b/a Alliant Transportation (Williams)	AQ	10,000
# Leo Pieper (Guthrie Co.)	AFO	2,500
Alta Vista Property Owners Assn. (Ames)	WS	1,000
Top of Iowa Cooperative (Hanlontown)	AQ	3,000
Bettendorf, City of	WW	1,000
Quality Mat Co., Inc. (Waterloo)	AQ	8,500
Ajinomoto USA (Eddyville)	AQ	4,000
Millersburg, City of	WS	3,000
Featherlite, Inc. (Cresco)	AQ	8,000
Boondocks Truck Haven (Williams)	WS	2,750
Speltz Elevator Inc. (Worth Co.)	WW	3,000



## Environmental Protection Commission Minutes

September 2000

Malvern, City of	WW	5,000
# Dan Witt (Clinton Co.)	AFO	3,000
Prairie Village Mobile Home Park (Booneville)	WS	250
Makada Homeowners Association (Iowa City)	WS	500
Houghton, City of	SW	2,000
Shell Rock Products, Inc. (Milford)	AQ	10,000
Twin Anchors R.V. Resort, Inc. (Story Co.)	WW	5,000
Kiefer Built, Inc. (Kanawha)	AQ	10,000
AGP Grain Cooperative (Klemme)	AQ	5,000
BTR Sealing Systems North America (Keokuk)	AQ	5,000
<b>TOTAL</b>		<b>441,550</b>

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
* Steven Reimers (Schaller)	AQ/SW	215
* Mount Joy Mobile Home Park (Davenport) PAID IN FULL	WW	500
Barry Smith (Delaware Co.)	AQ/SW	2,000
# Paul Arneson (Ellsworth)	AFO	250
Brown Bottle Restaurant (Cedar Falls)	WS	250
* Holland Contracting Corp. (Forest City)	AQ	500
Jet Co. Inc. (Humboldt)	AQ	600
Bode, City of	AQ/SW	500
CGB Printing Co. a/k/a Rock Communications Ltd. (Newton)	AQ	5,000
* Ben Haven Mobile Home Park	WS	50
Lamoni, City of	WW	500
Shelby's (Hazelton)	WS	100
The Elm's Corporation of Linn County (Cedar Rapids)	UT	500
L & S Ag Center (Worthington)	WW	1,500
Tara Hills Country Club (Van Horne)	WS	500
Albert Fleming (Clayton Co.)	FP	50
Interstate Grain, Inc. (Mason City)	AQ	500
* R.V. Hopkins, Inc. (Davenport)	AQ	500
Woolstock, City of	WW	2,000
* Steven Reimers (Schaller)	AQ/SW	215
<b>TOTAL</b>		<b>26,230</b>

The Following SEP payments were made last month:

The Legacy Group, L.C. (Des Moines)	WW	10,000
Kind and Knox Gelatin (Sioux City)	WW	125,000

The \$1,000 penalty assessed to ALMACO, Inc. (Nevada) has been rescinded.

The \$1,000 penalty assessed to Joe Denemark d/b/a Walnut Acres Campground (Monticello) has been rescinded.

Adrian, Dean Clinton Co. (6)	Animal Feeding Operation	Prohibited Discharge- Open Feedlot; Water Quality Violations- General Criteria	Referred to Attorney General	Referred Petition Filed Trial Date	3/15/99 9/13/99 2/26/01
Affordable Removal, Inc.; Jeffrey Intelkofer Iowa City (6)	Asbestos  Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed	3/20/00 4/19/00
Ballard, Randy	Construction	Without	Referred		5/29/96

September 2000

# Environmental Protection Commission Minutes

Fayette Co. (1)	Flood Plain	Permit		Order/Penalty	Petition Filed Trial Date	6/05/98 12/20/00
Castenson, David; Kristi A. Castenson, Barbara June Cummins; Velma Castenson d/b/a B & D Farms Webster Co. (2) <b>UPDATED</b>	Wastewater	DNR Defendant		Defense	Petition Filed Motion to Check Answer	7/17/00 8/07/00 8/15/00
Enviro Safe Air, Inc. Sioux City (3)	Air Quality	Asbestos		Referred to Attorney General	Referred Petition Filed	10/18/99 03/17/00
Fleming, Albert Clayton Co. (1) <b>UPDATED</b>	Flood Plain	Construction Without Permit		Order/Penalty	Referred Demand Letter Resolved by DNR	7/17/00 8/01/00 8/22/00
Grell, Don d/b/a Dodger Enterprises Ft. Dodge (2)	Solid Waste	Illegal Disposal		Judicial Review	Petition Filed State's Answer Defendant's Brief State's Brief Hearing Ruling for State Notice of Appeal	10/19/98 11/17/98 7/23/99 8/24/99 9/09/99 11/18/99 12/07/99
Guardian Industries Corp. DeWitt (6)	Air Quality	Operation Permit; Standards; Violations	Without Emission Operational	Referred to Attorney General	Referred	4/17/00
Hawkins, Ralene d/b/a R.J. Express Salvage and Demolition Burlington (6)	Solid Waste	Illegal Disposal		Order/Penalty	Referred	4/17/00
Henry County Board of Supervisors Henry Co. (6) <b>UPDATED</b>	Wastewater	Other; Operation Violations		Referred to Attorney General	Referred Closed by Attorney General	2/15/99 8/14/00
Holnam Incorporated Mason City (2)	Air Quality	Excess Emissions		Referred to Attorney General	Referred	3/15/99
Huyser, James; Trust Trucking Lovilia (5)	Underground Tank	Site Assessment		Referred to Attorney General	Referred Petition Filed Dismissed for Lack of Service Bankruptcy Petition Filed	11/21/94 4/18/96 9/20/96 9/20/96
Indian Creek Corp. Jasper Co. (5)	Animal Feeding Operation	Failure to Retain; Freeboard Violations; Failure to Have Approved MMP		Referred to Attorney General	Referred	4/17/00
Iowa Millenium Investors, LLC Des Moines (5)	Underground Tank	Site Assessment		Order/Penalty	Referred Petition Filed	10/18/99 8/01/00

## Environmental Protection Commission Minutes

September 2000

Iowa Select Farms, L.P. Clarke Co. Sow Unit #20 Jernquist Nursery Clarke & Ringgold Co. (4)	Animal Feeding Operation	Prohibited Failure to Retain	Discharge;	Referred to Attorney General	Referred	4/17/00
Keokuk Ferro-Sil, Inc. Keokuk (6)	Air Quality	Operation Permit	Without	Referred to Attorney General	Referred	5/15/00
Larson, Daryl Jones Co. (1)	Animal Feeding Operation	Freeboard Cleanup Costs		Referred to Attorney General	Referred	5/17/99
Ledenbach, Jim d/b/a Paper Recovery Cedar Rapids (1)	Solid Waste	Illegal Disposal		Order/Penalty	Referred	4/17/99
Lehigh Portland Cement Co. Mason City (2)	Air Quality	Construction Permit	Without	Referred to Attorney General	Referred Petition Filed Trial Date	8/17/98 11/05/99 4/09/01
Martinez, Vincent d/b/a Martinez Service Davenport (6)	Sewer Hazardous Condition	Remedial Action		Order/Penalty	Referred Petition Filed Partial Default Judgment (Injunction)	2/17/92 12/21/92 10/11/94
Mills County Landfill Assn. & Remonot County Landfill Assn. Mills Co. (4)	Solid Waste	DNR Defendant		Defense	Petition Filed Answer Filed Petitioner's Motion for Summary Judgment State's Resistance Hearing Trial Date	11/05/99 11/29/99 6/15/00 7/19/00 8/17/00 10/23/00
Morgan, Ron d/b/a Action Jack's Paintball Park Polk Co. (5)	Solid Waste	Illegal Disposal		Order/Penalty	Referred	2/15/99
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5)	Solid Waste	Permit Violations		Referred to Attorney General	Referred Petition Filed Application for Temporary Injunction Temporary Injunction Trial Date	12/15/97 10/02/98 2/04/99 4/19/99 9/13/00
Organic Technologies; Tim Danley; Ken Renfrow Warren Co. (5)	Solid Waste Wastewater	Compliance Cover Discharge Operation Violations	Schedule; Violations; Limits;	Order/Penalty	Referred	7/17/00
Orth, Peter J. f/d/b/a Strauss Bros. Conoco Burlington (6)	Underground Tank	Site Assessment; Remedial Action		Order/Penalty	Referred Petition Filed	3/20/00 8/01/00
Phillips, Jeff; Phillips Recycling Story Co. (5)	Wastewater	Stormwater; Without Permit	Operation	Order/Penalty	Referred	8/16/99

Sharkey, Dennis J., Sr. Dubuque Co. (1)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred	7/17/00
Spillway Supper Club Harpers Ferry (1)	Drinking Water	Permit Renewal Fee	Order/Penalty	Referred	6/21/99
Village Realty Pottawattamie Co. (4) <b>UPDATED</b>	Underground Tank	DNR Defendant	Defense	Petition Filed State's Motion to Dismiss Order Granting Partial Dismissal Motion for Summary Judgment Hearing Ruling Denying Motion for Summary Judgment \$15,000 Payment by UST Fund Board Dismissed With Prejudice	8/12/98 10/08/98 12/22/98 1/27/00 2/22/00 3/16/00 6/29/00 8/01/00
White, Robert Jeff White, Dave Dallas Center (5)	Air Quality; Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Dismissed Without Prejudice Petition Against Dave White Filed Answer Filed	4/20/98 2/05/99 9/24/99 11/15/99 12/06/99
Wunschel Oil Co.; Vernus Wunschel and Jaquelyn Wunschel Battle Creek (3) <b>UPDATED</b>	Underground Tank	Site Assessment	Referred to Attorney General	Referred Motion for Judgment Consent Decree (\$6,400/Admin.) Referred Petition Filed	1/17/95 8/28/96 12/13/96 3/30/98 9/01/00
Wunschel Oil Co.; Vernus Wunschel and Jaquelyn Wunschel Ida Grove (3) <b>UPDATED</b>	Hazardous Condition	Site Access; Other	Referred to Attorney General	Referred Petition Filed	6/19/00 9/01/00
Zook, Russell Haskins Recycling Ainsworth (6)	d/b/a Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred	5/17/99

11/03/89	Bridgestone/Firestone, Inc.	5	Site Registry	HC	Murphy	Hearing continued pending negotiations. Settlement proposed 8/96. Status report requested from land quality bureau 12/1/99.
5/08/90	Texaco Inc./Chemplex Co. Site	6	Site Registry	HW	Murphy	Settlement offer to be renewed 3/00.
5/14/90	Alter Trading Corp. (Council Bluffs)	4	Admin. Order	SW	Tack	Closure permit amendment #2 issued 4/26/00. Closure certification expected by end of 2000.
6/20/90	Des Moines, City of	5	NPDES Permit Cond.	WW	Hansen	EPD met with City to resolve appeal issues. Follow-up with EPD regarding status-3/97. 12/28/99 – F.O. 5 letter to City regarding resolution of permit issues. 3/6/00 – F.O. 5 met with City concerning permit issues.

7/02/90	Keokuk Savings Bank and Trust; Keokuk Coal Gas Site	6	Site Registry	HW	Murphy	Hearing continued. Status report requested from land quality bureau on 12/1/99.
7/30/90	Key City Coal Gas Site; and Howard Pixler	1	Site Registry	HW	Murphy	Decision appealed (Pixler) Site remediation completed. Status report requested from land quality bureau 12/1/99.
9/25/91	Archer Daniels Midland	6	Admin. Order	SW	Tack	DNR engineers reviewing documents. Closure permit issued 1/10/00.
5/12/92	Paris & Sons, Inc.	1	Site Registry	HC	Wornson	<b>Bankruptcy dismissed. Negotiations with creditor to enroll in LRP and complete site assessment.</b>
11/16/92	Frank Hulshizer	1	Admin. Order/Penalty	SW	Tack	Settled. Abatement agreement signed 9/21/99. Penalty to be forgiven upon completion of clean-up.
4/05/93	Mapleton, City of	4	WW Operator Certification	WW	Hansen	Under review by EPD. Appeal discussion with EPD staff. 2/28/00 – Letter to City attorney regarding setting for hearing. 3/00 – Dept. reviewing City Engineer's submittal.
7/20/93	Valley Restaurant/Sierp Oil; Mary & Carl Sierp; and Robert Radford (7LTY50)	4	Admin. Order	UT	Wornson	<b>Revised Tier 2 approved. CADR due 6/2/00. CADR overdue, working with responsible party. Upon CADR proposal approval, dismiss appeal.</b>
7/12/94	Tom Wiseman (8LTP62)	2	Admin. Order/Penalty	UT	Wornson	<b>Tier 1 completed – awaiting DNR review.</b>
8/29/94	B and B Tire and Oil (8LT088)	4	Admin. Order/Penalty	UT	Wornson	Tier 2 submitted. High risk. CADR due 12/31/99. Penalty to be settled.
9/09/94	American Coals Corp., Site 5 (Bussey)	5	Admin. Order/Penalty	SW/AQ	Tack	Consent order sent to parties. Awaiting Dept. of Agriculture resolution.
9/16/94	Wunschel Oil Co.; Vernus Wunschel; Jacquelyn Wunschel; Mark Wunschel (Ida Grove)	3	Admin. Order/Penalty	UT	Wornson	Consent order. SCR received. Revisions to SCR required - overdue. Follow-up letter sent 2/26/96. UST Fund conducting further assessment and free product removal.
10/07/94	Titan Wheel International	6	Admin. Order/Penalty	WW	Hansen	Revised BMR report submitted/reviewed by WW Permits. Letter to facility regarding report. 3/2/00 – Letter to attorney regarding setting appeal for hearing. 3/23/00 – Response received from attorney regarding appeal.
1/13/95	Simonsen Industries, Inc.	5	Admin. Order/Penalty	WW	Hansen	2/28/95 - Submittal by facility's engineer regarding land application of sludge. Under review by WW permits staff. Update requested from WW staff. 2/1/00 – Report on compliance requested from FO and WW staff. 2/2/00 – Permit to be issued to facility. 6/29/00 – Status report on permit requested from WW permit staff.

2/23/95	Lehigh Portland Cement	2	Permit Conditions	WW	Hansen	<b>Informal settlement meeting held on 6/96. Facility to provide status report regarding TSS permit limit by 9/20/96. 12/28/99 Dept. letter to facility attorney regarding setting appeal for hearing and also resolution of the appeal. 1/24/00 – Letter from WW attorney concerning settlement. Additional time requested to resolve issues raised by appeal. 2/22/00 Dept. response to attorney regarding hearing. 2/25/00 – Sent to DIA to be set for hearing. 3/8/00 – Hearing set for 5/19/00. Petition filed with DIA 3/28/00. 4/17/00 – Answer filed with DIA. 5/11/00 – Settled. New permit to be issued by 9/1/00 following submittal of further information by company and issuance of draft permit. Hearing continued to 9/25/00. 7/17/00 Information received from company including sample locations. 7/28/00 – Revised permit drafted and mailed in accordance with settlement offer. 8/12/00 – Draft permit put out on public notice. Final permit to be issued in 9/00 which will resolve appeal.</b>
3/23/95	American Coals Corp.	5	Admin. Order	SW	Tack	Awaiting consent order approval. Awaiting Dept. of Agriculture resolution.
4/13/95	The Weitz Corp.; Barton Solvents, Inc.	5	Admin. Order	HC	Tack	Remediation plan received 5/27/96. 6/9/00 – Initial remedial measures completed. Final treatment system currently being designed.
6/20/95	Toledo, City of	5	Permit Conditions	WW	Hansen	<b>WW permits to negotiate settlement. Status of negotiations requested 1/9/96. Dept. letter to facility's engineer regarding resolving appeal. 1/3/00 – Revised WLA and permit limits sent to facility. 1/26/00 – Dept. letter to WW engineer regarding construction schedule to meet revised permit limits. 2/28/00 – Follow-up letter to City regarding construction schedule. 3/20/00 – Response from City attorney with agreement to submit construction schedule by 4/20/00. 4/27/00 – Discussion with City attorney regarding City's schedule. 6/14/00 – Letter received from attorney requesting meeting to discuss compliance schedule. 7/28/00 – Letter to City attorney scheduling meeting for 8/3/00. Letter from City attorney regarding scheduling a meeting.</b>
6/23/95	Leonard C. Page	4	Admin. Order/Penalty	SW	Tack	Settlement offer pending.
7/03/95	Donald J. Foreman d/b/a D & R Feedlots	3	Admin. Order/Penalty	WW	Hansen	2/1/00 – Report on compliance requested from FO. 2/7/00 – Status report received. Response to FO concerning resolving appeal. 3/28/00 Status report received from F.O.

7/05/95	Boyer Valley Co.	4	Admin. Order/Penalty	WW	Hansen	Informal meeting held for 6/7/96. Response from facility due 6/28/96. Response received from facility 7/96. 3/2/00 – Letter to attorney concerning appeal resolution. 3/17/00 – Letter received from company attorney.
7/10/95	Gilbert Persinger/Smithland Store	3	Admin. Order/Penalty	UT	Wornson	SCR received - rejected. Review progress. Proposed for state lead.
8/01/95	Wilbur McNear d/b/a McNear Oil Co./Charter Oak	4	Admin. Order/Penalty	UT	Wornson	SCR received/rejected. Referral for state lead. Resolve penalty.
9/20/95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	6	Admin. Order	WW/HC	Murphy	Negotiating before filing. Attorneys contacted 2/99.
12/12/95	Vernon Kinsinger; K & K Sanitation	6	Admin. Order/Penalty	AQ/SW	Tack	Clean-up progressing. Working with F.O. #6. Receiving penalty payments.
1/12/96	Clarence, City of	6	Admin. Order/Penalty	WW	Hansen	1/96 - Facility inspected by FO 6. 9/96 letter from facility attorney stating construction completed. 2/1/00 – Status report on compliance requested from FO 6. 2/2/00 – Dept. to send settlement offer to City. City has returned to compliance. 2/28/00 Settlement offer to City attorney. 3/30/00 – Follow-up letter to attorney. 4/21/00 – Contact by new City attorney. City will consider settlement offer at 5/8/00 City Council meeting and respond by 5/20/00.
1/25/96	Hidden Valley Mobile Home Park	6	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
3/11/96	Dallas County Care Facility	5	Admin. Order/Penalty	WW	Hansen	Facility inspected by FO. Now in compliance.
3/14/96	Lamoni, City of	5	Admin. Order	WW	Hansen	12/20/99 Dept. letter with new waste load allocation and ammonia nitrogen limits for treatment facility. 1/26/00 – Letter to facility engineer regarding whether construction schedule needed due to new WLA and new effluent limit and setting appeal for hearing. 2/21/00 – Letter from engineer including compliance schedule in response to FO 5. 3/22/00 – Dept. accepted settlement offer from City engineer. Offer to be finalized in consent order with schedule and penalty. 6/00 – Consent order sent to facility engineer for review. 7/00 – Consent order sent to utilities for signature; to be signed by interim director. 7/24/00 – Consent order signed by Director and issued. 8/17/00 – Penalty paid. Closed.
3/22/96	Mt. Joy Mobile Home Park	6	Admin. Order/Penalty	WW	Hansen	3/25/96 Inspection by FO 6. Facility in compliance. 2/1/00 Status report on compliance requested of FO 6. 2/2/00 – Facility has returned to compliance. 2/24/00 – Settlement offer sent to MHP. 4/5/00 – Follow-up letter to facility regarding settlement. 5/10/00 – Settled.

						Awaiting penalty payment. 6/26/00 – Dept. letter sent regarding penalty payment. 7/7/00 – Dept. received \$500 toward settlement of penalty amount. Second \$500 penalty payment received. Past due reports submitted. Facility returned to compliance. Closed.
5/07/96	Lakeview Mobile Home Park	5	Admin. Order/Penalty	WW	Hansen	6/20/96 - informal meeting held. Facility to provide settlement offer by 7/15/96. Settlement offer received from facility - under review. 2.27.99 0 FO contacted regarding appeal resolution.
5/14/96	Gary Lee Walker	4	Admin. Order/Penalty	AQ/SW	Tack	Negotiating before filing.
5/16/96	Grand Laboratories, Inc.	3	Permit Denial	WW	Hansen	Information received and reviewed by EPD. Settlement offer and revised permit sent to facility 7/97. Response received 8/97. Under review by EPD. Facility to provide further response and settlement offer to DNR by 3/15/98. 3/13/98 Dept. received proposal from facility engineer. 3/20/98 Dept. review of proposal completed. 8/98 – Letter to Grand Labs rejecting their proposal. 9/25/98 letter from Grand Labs regarding settlement. Grand Labs to submit new settlement 3/99. 5/99 Grand Labs submitted settlement proposal; under review by WW and WQ staff. 2/29/00 – Response received from WQ engineer. Staff reviewing for decision.
8/09/96	Gene and Margaret Palmersheim d/b/a G & M Service Mart 8LT593	1	Admin. Order/Penalty	UT	Wornson	Tier 2 received. Negotiating penalty. Placed on State lead.
9/24/96	North Star Steel Iowa		Permit Denial	AQ	Preziosi	Permit issued 3/31/97. Letter sent 6/1/00 requesting assurance that all issues have been addressed. Closed.
10/17/96	DeCoster Farms of Iowa (Nursery Unit 3 - Wright Co.)	2	Permit Revocation	AFO	Clark	6/15/00 - Settlement status letter to appellant. 8/4/00 – Appellant response – being reviewed by Dept. staff.
10/28/96	Fischer Controls International		Permit Conditions	WW	Hansen	Negotiating before filing.
2/19/97	Cliff's Place, Inc.	1	Admin. Order/Penalty	WS	Hansen	Compliance initiated. 3/31/00 – Appeal to be closed. New owner.
7/22/97	CIPCO		Construction Permit Conditions	AQ	Preziosi	Letter sent 6/6/00 requesting assurance that all issues have been addressed. Settled.
7/22/97	Robert P. Frees; Elizabeth R. Mathes	6	Admin. Order/Penalty	SW	Tack	Settlement reached. Cleanup underway.
8/01/97	Dodger Enterprises Co., Tire Chop Division; Donald Grell	2	Admin. Order	SW	Murphy	Proposed decision 6/26/98. Appeal to EPC. Affirmed 9/21/98. Appealed to District Court. Affirmed 11/8/99. Appealed to Iowa Supreme Court 12/7/99.



8/05/97	Biovance Technologies	5	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
9/17/97	Keokuk Steel Castings	6	Admin. Order/Penalty	AQ	Brabec	<b>8/31/00 – Negotiations continue.</b>
12/12/97	Donald E. Grell; Dodger Enterprises, Tire Chop Division	2	Notice of Intent to Revoke Solid Waste Permit; Denial of Application for New Waste Tire Mgmt. Permit	SW	<b>Murphy</b>	Proposed decision 6/26/98. Appeal to EPC. Affirmed 9/21/98. Appealed to District Court. Affirmed 11/8/99. Appealed to Iowa Supreme Court 12/7/99.
1/13/98	DeCoster Farms of Iowa (Nursery #8) (Wright Co.)	2	Admin. Order/Penalty	AFO	Clark	6/29/00 - Appeal dismissed.
1/16/98	Pilgrim Heights Camp		NPDES Permit Conditions	WW	Hansen	Negotiating before filing.
1/23/98	Sac City	3	Admin. Order/Penalty	WW	Hansen	Status report received from city's consultant. 2/1/00 – Status report on WW compliance requested from FO 3. 2/28/00 – Settlement offer sent to attorney. 3/28/00 – City attorney letter received. 3/29/00 – Letter to attorney regarding scheduling settlement meeting and setting case for hearing. 4/17/00 – Dept. meeting with City attorney and officials to discuss settlement. 6/28/00 – Sent to DIA to be set for hearing. 7/25/00 – DIA set hearing for 9/20/00.
3/16/98	Pathway Christian School	6	Admin. Order/Penalty	WS	Hansen	3/1/00 – Status report requested of FO. 3/2/00 – Status report received. 4/28/00 – Letter to WS concerning resolution of appeal.
4/03/98	Cooperative Oil Company; Mickey Berg	2	Admin. Order	UT/WW	Wornson	Compliance complete. Review and close. Monitoring required Spring 2000.
4/27/98	Weise Corporation	5	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
7/01/98	Ag Processing, Inc.	4	Permit Conditions	AQ	Preziosi	Negotiations continue.
8/18/98	University of Iowa	6	Permit Conditions	WW	Hansen	Settlement offer sent 10/98. Follow-up letter sent 3/22/99. U of I to submit response to Dept. settlement offer by 5/28/99. Information submitted by U of I. Wastewater staff revised permit in response to information received.
9/29/98	Randy Foth d/b/a Foth Lumber Co.	2	Admin. Order/Penalty	AQ	Brabec	Settled. Partial penalty payment received.
10/03/98	Ag Processing, Inc. (Emmetsburg)	4	Permit Exemption Denial	AQ	Preziosi	Settlement close.
10/06/98	M & W Pallett Co.	6	Admin. Order	SW	Tack	Clean-up near completion as of 6/20/00. Pallets 95% ground. Dept. assisting in

						identifying markets for mulch.
10/08/98	West Liberty, City of	6	Admin. Order/Penalty	WW	Hansen	Informal procedures requested. 2/1/00 – Status report requested of FO 6. 2/02/00 – Report received from FO. 2/28/00 – Letter to attorney to schedule meeting resolving appeal. 2/28/00 – Status report concerning I/I work received. 3/24/00 – Meeting scheduled for 4/14/00 to discuss resolving appeal. 4/14/00 – Met with City attorney and officials concerning appeal. 7/26/00 – Dept. settlement offer drafted/under review by Dept. staff.
10/09/98	Elm's Corporation of Linn County (8LTX55)	1	Admin. Order/Penalty	UT	Wornson	<b>Compliance initiated. Tanks removed. Tier 2 overdue. Tier 1 submitted 10/14/99. Classified NAR 2/00. Proposed penalty settlement 7/26/00. Penalty payment received 8/18/00. Closed.</b>
11/19/98	Jacobs Energy Corporation		Permit Denial	AQ	Preziosi	Negotiating before filing.
11/30/98	Robert Diehl	5	Admin. Order/Penalty	WW/WS	Murphy	Construction permit application received.
12/16/98	Richard Swailes		Permit Denial	FP	Clark	5/18/00 – Notification of imminent transfer to DIA. 7/5/00 - Appellant's attorney requests additional time for expert consultation.
12/24/98	Keokuk Steel Castings Co., Inc.	6	Admin. Order/Penalty	AQ	Brabec	<b>8/31/00 – Negotiations continue.</b>
1/13/99	Bernadette Ryan	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
1/20/99	Lonnie King	5	Admin. Order/Penalty	AQ/SW	Tack	<b>Clean-up satisfactory. Settlement offer made 8/8/00.</b>
2/05/99	West Union Cooperative Co.	1	Admin. Order/Penalty	WW	Murphy	Settlement proposed 9/99. Further studies 4/00.
3/04/99	Dayton, City of	2	Admin. Order/Penalty	WW	Murphy	4/00 – City progressing on facility improvements. Will monitor for progress.
3/08/99	Peter Bockenstedt	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
3/16/99	Des Moines Independent School District – North High School	5	Site Registry	HC	Tack	Settlement letter sent by solid waste section 12/20/99.
3/18/99	Ag Processing, Inc. (Sergeant Bluff)		Title V Operation Permit Conditions	AQ	Preziosi	<b>Hearing continued. Second settlement meeting held 8/18/99. Hearing procedure on hold pending outcome of task force. Settlement meeting set for 9/11/00.</b>
3/23/99	Matthew M. Daly	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
3/23/99	Daniel J. Gotto	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.

3/31/99	Woolstock, City of	2	Admin. Order/Penalty	WW	Hansen	Compliance initiated by City. To be set for hearing regarding penalty. 1/28/00 – Compliance status report received from FO 2. 2/7/00 – Letter to City advising appeal be set for hearing. 2/18/00 – Sent to DIA to be set for hearing. 3/00 – Hearing set for 4/26/00. 4/17/00 – Dept. met with City attorney and officials concerning order and penalty. Hearing held 6/14/00. Proposed ALJ decision issued 7/13/00. No further appeal of ALJ decision. 8/28/00 - Penalty payment received. Case closed.
4/15/99	Robert Simon	1	Admin. Order/Penalty	AQ/SW	Tack	Settled. Paying penalty on payment plan.
4/15/99	Shine Bros. Corp.		SWA Denial	SW	Tack	SWA expired. Revocation and appeal are moot. Closed.
4/16/99	Cargill (Sioux City)	3	Title V Operation Permit Conditions	AQ	Preziosi	Hearing procedure on hold pending outcome of task force. Settlement meeting set for 9/13/00.
4/26/99	Gerald and Judith Vens	6	Admin. Order/Penalty	FP	Clark	Negotiating before filing.
5/06/99	Hargrave McEleney, Inc.	6	Admin. Order/Penalty	WS	Hansen	Amended order to be issued. 2/2/00 – Dept. to contact WS concerning lead and copper sampling. 3/29/00 – Dept. engineer requested two more rounds of sampling to be conducted by 7/30/00. 5/31/00 – Status report requested from WS section. Per WS section 1 <sup>st</sup> round, 2000 lead and copper samples taken. 7/26/00 – Update requested from WS section engineer. 8/30/00 – Settlement offer sent to WS regarding penalty. Facility has returned to compliance.
5/18/99	Snap-On-Tools Co.	2	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
5/27/99	CGB Printing aka Rock Communications	5	Admin. Order/Penalty	AQ	Preziosi	Settlement meeting held 1/31/00. Evaluating additional information. Settled. 8/16/00 – Penalty paid. Closed.
7/19/99	Celotex Corp. (Ft. Dodge)	2	Permit Conditions	AQ	Preziosi	Negotiating before filing.
7/27/99	Affordable Asbestos Removal; Jeffry Intlekofer	6	Admin. Order/Penalty	AQ	Brabec	Hearing held 4/28/00. Judgment for DNR Appeal filed. Awaiting transcripts and briefing schedule. Initial brief due 9/25/00. Scheduled to go before November EPC meeting.
8/10/99	Muscatine County Sanitary Landfill	6	Admin. Order/Penalty	SW	Tack	Violations corrected as of 6/20/00. Penalty to be negotiated after closure determination is made in late September.
8/13/99	Farmland Foods, Inc. (Dubuque)	1	Construction Permit Conditions	AQ	Preziosi	Settlement close.

9/07/99	Shine Bros. Corp.	3	Admin. Order/Penalty	AQ	Brabec	Negotiating before filing.
9/08/99	Linwood Mining & Minerals	6	Permit Conditions	AQ	Preziosi	Negotiating before filing.
9/10/99	Linwood Mining & Minerals	6	Permit Denial	AQ	Preziosi	Negotiating before filing.
9/13/99	Eugene P. Reed	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
9/13/99	CIPCO	1	NPDES Permit Conditions	WW	Hansen	12/29/99 – Appeal reviewed by wastewater permit writer.
9/21/99	Julie Rowe d/b/a Jewel's Food & Spirits	1	Admin. Order/Penalty	WS	Murphy	12/99 – FO and WS tracking compliance.
9/21/99	Farmland Foods, Inc. (Denison))	1	Construction Permit Conditions	AQ	Preziosi	Settlement close.
9/30/99	Rollin McAdams d/b/a McAdams Demolition Co. (Davenport)	1	Admin. Order/Penalty	AQ	Brabec	Settled. Awaiting penalty payment.
10/12/99	Fernald Water System	5	Admin. Order/Penalty	WS	Clark	Settlement letter sent 6/21/00 – payment due 7/24/00.
<b>10/12/99</b>	<b>Brown Bottle Restaurant</b>	<b>1</b>	<b>Admin. Order/Penalty</b>	<b>WS</b>	<b>Hansen</b>	<b>WS submitted preliminary engineering report regarding nitrate reduction. WS to install an ion exchange unit. Still need to submit construction permit applications and a schedule. Report dated 10/29/99 submitted to Dept. Review completed by Dept. WS engineer. Facility engineer to submit construction permit application and schedule. 1/3 and 1/26/00 – Dept. requested iron and sulfate test. When test results are received Dept. will set due date for submittal of P &amp; S. 2/28/00 – Dept. letter requiring iron and sulfate tests and submittal of plans and specifications for nitrate removal system by 3/10/00. 3/21/00 – Dept. engineer received and reviewed plans and specifications. Awaiting iron test results. 5/1/00 – Dept. engineer approved as-builts submitted for nitrate control unit. 6/29/00 – Dept. settlement offer sent to attorney for WS. 7/26/00 attorney made counter offer. 7/27/00 Dept. accepted offer. Settled. 8/300 – Penalty paid. Closed.</b>
10/15/99	Sac County Golf & Country Club	3	Admin. Order/Penalty	WS	Tack	Negotiating before filing.
<b>10/19/99</b>	<b>Tara Hills Country Club</b>	<b>1</b>	<b>Admin. Order/Penalty</b>	<b>WS</b>	<b>Murphy</b>	<b>Hearing set for 8/18/00. Penalty received 8/21/00. Settled.</b>
10/22/99	Robert Fisher	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.

10/22/99	Greenwood Hills Estates, L.C. and GK Properties, Inc.	5	Admin. Order/Penalty	WW	Murphy	7/26/00 – Settled. Awaiting penalty payment.
11/03/99	Cargill, Incorporated (Cedar Rapids)	1	Permit Conditions	AQ	Preziosi	Hearing procedure delayed pending outcome of task force.
11/10/99	Michael L. Roberts	4	Admin. Order/Penalty	AQ	Tack	Settlement offer sent 3/22/00.
11/12/99	Osceola, City of	5	Admin. Order/Penalty	WW	Hansen	<b>1/4/00 – FO 5 letter to City requesting complete plan of action by 5/15/00. 5/31/00 – Status report on plan of action submittal requested by FO. 6/28/00 – Sent to DIA to be set for hearing. 7/25/00 – DIA set hearing for 9/29/00. 8/17/00 – Meeting with city officials and engineer to discuss settlement.</b>
11/12/99	Logan, City of	4	Admin. Order	WW	Hansen	City requested new schedule because of additional time needed for condemnation proceedings due to change in statute. 2/22/00 – Dept. requested attorney and engineer submit revised schedule if needed in view of delays in condemnation. 2/28/00 – City submitted amended appeal with revised schedule.
11/12/99	Cargill, Incorporated (Iowa Falls)	2	Title V Operation Permit Conditions	AQ	Preziosi	Hearing procedure delayed pending outcome of task force.
11/15/99	Industrial Energy Applications	1	Permit Denial	AQ	Preziosi	Meeting set for 8/28/00.
11/15/99	Rocky Knoll Mobile Home Park	2	Admin. Order/Penalty	WS	Tack	Negotiating before filing.
11/19/99	Climax Molybdenum Co.	6	Permit Denial	AQ	Preziosi	Meeting set for 8/28/00.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
12/08/99	Cargill, Incorporated (Sioux City)	3	Permit Conditions	AQ	Preziosi	Negotiating before filing.
12/08/99	Oakview Construction	5	Admin. Order/Penalty	AQ/SW	Tack	Settlement offer sent 5/18/00.
12/10/99	Leonard Rayhons; Randy Schleusner	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
12/13/99	Omaha Cold Storage Terminals	2	Admin. Order/Penalty	WW	Murphy	7/31/00 – Hearing continued. Settlement being discussed.
12/17/99	Edward Degeus	2	Admin. Order/Penalty	AQ	Brabec	Negotiating before filing.
1/04/00	Aaron Berry	4	Admin. Order/Penalty	AQ/SW	Tack	Settlement offer sent 3/22/00.

1/06/00	Wendall Abkes	2	Admin. Order/Penalty	AQ/SW	Tack	Settlement offer sent 2/22/00.
1/07/00	Ft. Dodge, City of	2	Admin. Order/Penalty	WS	Murphy	<b>8/18/00 – Settled. Awaiting penalty payment.</b>
1/11/00	Farmland Industries	2	Permit Denial	AQ	Preziosi	Negotiating before filing.
1/13/00	Pine Creek Golf Course	2	Admin. Order/Penalty	WS	Hansen	<b>4/26/00 – Letter to WS concerning required monitoring and public notice. 6/26/00 – Second quarter bacteria sample collected. 7/10/00 – Dept. letter requesting 3<sup>rd</sup> quarter bacteria sample and settlement. 8/24/00 – Per discussion with WS, 3<sup>rd</sup> quarter bacteria sample taken; test results to be sent to DNR.</b>
1/20/00	New Virginia Sanitary Sewer District	5	Admin. Order	WW	Murphy	Negotiating before filing.
1/21/00	Dave Thompson	2	Admin. Order/Penalty	SW	Tack	<b>Hearing held 5/31/00. Proposed decision issued 8/31/00. Decision affirms Depts. order and penalty.</b>
1/25/00	Tire Environmental Services, Inc.	1	Permit Conditions	SW	Tack	Settlement discussions held 6/20/00. Proposal to be made by permit applicant.
2/07/00	Benefit Water District #2	5	Admin. Order/Penalty	WS	Murphy	Negotiating before filing.
2/10/00	Holland Contracting Corp.	2	Admin. Order/Penalty	AQ	Brabec	Settled. Penalty plan established. Payments are on schedule.
2/11/00	Steven Reimers	3	Admin. Order/Penalty	AQ/SW	Brabec	Settled. Penalty plan established. Payments are on schedule.
2/22/00	MINSA Corporation	4	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
2/25/00	Meadow Knolls Addition	1	Admin. Order/Penalty	WS	Tack	Negotiating before filing.
2/28/00	Bee Rite Tire Disposal Inc.; Jerry Yeomans	5	Admin. Order/Penalty	SW	Tack	Settlement offer made 4/13/00. Response due by 6/30/00.
3/02/00	Dennis Severson d/b/a Huxley Dry Cleaners	5	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
3/21/00	Bruening Rock Products, Inc.	1	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
4/05/00	Ainsworth, City of	6	Admin. Order/Penalty	WW	Murphy	Engineering report due 6/4/00.
4/05/00	Minnesota Rubber	2	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
4/11/00	Hawkeye Leisure Trailers	2	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
<b>4/11/00</b>	<b>Kirk Latta</b>	<b>1</b>	<b>Admin. Order/Penalty</b>	<b>WS</b>	<b>Wornson</b>	<b>Settlement reached. Closed.</b>

4/14/00	Stateline Cooperative	2	Admin. Order	HC	Wornson	Compliance initiated.
4/17/00	Delaware Conservation Board Co.	1	Admin. Order/Penalty	WS	Murphy	Settlement offer sent 7/27/00.
4/21/00	LT Tap	1	Admin. Order/Penalty	WS	Clark	Negotiating before filing.
<b>4/21/00</b>	<b>ALMACO</b>	<b>5</b>	<b>Admin. Order/Penalty</b>	<b>AQ</b>	<b>Preziosi</b>	<b>Settled. Penalty rescinded. Closed.</b>
4/24/00	Tama Paperboard	5	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
4/24/00	Carroll, City of	4	Permit Conditions	WW	Hansen	<b>City to file appeal of final NPDES permit. Prior notice of appeal was in response to draft permit.</b>
4/26/00	State Wide Metal Recycling, Inc.; Fred Bovee	5	Admin. Order/Penalty	SW/HC	Tack	<b>District court ordered clean-up underway. Clean-up to be completed by 9/21/00.</b>
4/28/00	IBP, Inc.	6	Admin. Order/Penalty	SW	Tack	Proposed settlement sent 7/13/00.
5/04/00	Iowa State University Heating Plant	5	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
5/10/00	3M Company	5	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
<b>5/10/00</b>	<b>Shelby's</b>	<b>1</b>	<b>Admin. Order/Penalty</b>	<b>WS</b>	<b>Tack</b>	<b>Settlement offer made 6/16/00. \$100 settlement paid. Closed.</b>
<b>5/10/00</b>	<b>Rita Holtkamp</b>	<b>6</b>	<b>Certification Denial</b>	<b>WW</b>	<b>Wornson</b>	<b>Informal settlement finalized. Closed.</b>
5/11/00	John Deere Waterloo Works – DSS	1	Admin. Order/Penalty	AQ	Brabec	Negotiations continue.
5/12/00	Martin Marietta Materials, Inc.	1	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
5/12/00	Iowa Air National Guard – 185 <sup>th</sup> Fighter Wing	3	Admin. Order/Penalty	AQ	Brabec	<b>Negotiations continue.</b>
5/16/00	Heinz USA	6	Admin. Order/Penalty	AQ	Brabec	Settled. Consent amendment received. Awaiting penalty payment.
<b>5/19/00</b>	<b>Jet Company</b>	<b>2</b>	<b>Admin. Order/Penalty</b>	<b>AQ</b>	<b>Preziosi</b>	<b>Settled. 8/16/00 – Penalty paid. Closed.</b>
6/05/00	Burlington Northern Santa Fe Railroad	6	Admin. Order/Penalty	AQ	Brabec	Settled. Consent amendment received. Awaiting penalty payment.
6/06/00	Top of Iowa Cooperative	2	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6/06/00	Alliant Energy	5	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.

6/08/00	Leo Pieper	4	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
6/08/00	Ajinomoto	6	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6/09/00	Alta Vista Property Owners Assoc.	5	Admin. Order/Penalty	WS	Clark	Negotiating before filing.
6/14/00	Bettendorf, City of	6	Admin. Order/Penalty	WW	Hansen	<b>8/31/00 – To be sent to DIA to be set for hearing.</b>
6/14/00	Quality Mat Co., Inc.	1	Admin. Order/Penalty	AQ	Brabec	<b>Hearing set for 9/15/00.</b>
6/16/00	Millersburg, City of	6	Admin. Order/Penalty	WS	Tack	Negotiating before filing.
6/27/00	GOMACO	3	Admin. Order/Penalty	AQ	Brabec	<b>Settled. Awaiting penalty payment.</b>
6/28/00	Speltz Elevator, Inc.	2	Admin. Order/Penalty	WW	Murphy	Settlement offer sent 7/21/00.
6/30/00	Featherlite, Inc.	1	Admin. Order/Penalty	AQ	Brabec	<b>Negotiations continue. Settlement close.</b>
<b>7/06/00</b>	<b>L &amp; S Ag Center</b>	<b>1</b>	<b>Admin. Order/Penalty</b>	<b>WW</b>	<b>Murphy</b>	<b>Settlement offer sent 7/26/00. 8/15/00 – Penalty received. Settled.</b>
7/10/00	Boondocks Truck Haven Café	5	Admin. Order/Penalty	WS	Hansen	Compliance initiated by facility.
7/10/00	Lincoln, City of	5	Admin. Order	WW	Hansen	Negotiating before filing..
7/12/00	Malvern, City of	4	Admin. Order/Penalty	WW	Hansen	<b>8/31/00 – To be sent to DIA to be set for hearing.</b>
7/13/00	Dan Witt	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
<b>7/14/00</b>	<b>Paul Arneson</b>	<b>2</b>	<b>Admin. Order/Penalty</b>	<b>AFO</b>	<b>Clark</b>	<b>Settlement letter sent 7/19/00. Penalty received 8/9/00. Settled.</b>
7/19/00	Prairie Village Mobile Home Park	5	Admin. Order/Penalty	WS	Hansen	6/27/00 – WS has submitted required CCR for 1998 and 1999. 7/26/00 – WS still needs to submit certification and proof of public notice.
7/28/00	Makada Homeowners Assoc.	6	Admin. Order/Penalty	WS	Clark	8/28/00 – Settlement letter sent.
7/31/00	Houghton, City of	6	Admin. Order/Penalty	SW	Tack	<b>Compliance achieved. Settlement offer made 8/16/00.</b>
7/31/00	Shell Rock Products, Inc.	2	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
8/01/00	BTR Sealing Systems	6	Admin. Order/Penalty	AQ	Brabec	New case.



8/02/00	Wacker Biochem Corp.	5	Permit Conditions	AQ	Preziosi	New case.
8/11/00	Southeast Iowa CCI (Southland Pork L.C.)	6	Permit Issuance	AFO	Clark	New case.
8/11/00	Loyal and Marilyn Rue; James and Elizabeth Fritz; De. Stephen McCargar; William and Jo Iverson; Dennis Pottratz; Cynthia Kay; Elyse Cohrs; Deanna Kloster; and Frank Holland (Wal-Mart)	1	Permit Issuance	FP	Clark	New case.
8/11/00	Twin Anchors RV Resort	5	Admin. Order/Penalty	WW	Tack	New case.
8/11/00	Kiefer Built	2	Admin. Order/Penalty	AQ	Preziosi	New case.
8/14/00	AGP Grain Cooperative	2	Admin. Order/Penalty	AQ	Brabec	New case.
8/31/00	Heritage Residence	1	Admin. Order/Penalty	WS	Murphy	New case.

Mike Valde asked to delay item 8 until the following month due to some comments that came in after changes had been made. He called the Commission's attention to last item in the rulemaking status report is the onsite wastewater treatment state revolving fund rules, he said the Department was working on them, and intended to bring them to the Commission in November. The Department anticipates asking the Commission to make them effective immediately on filing because it is part of the water initiatives that would provide low rate loans to people with septic tanks.

Mr. Valde said James Braun had contacted him during the previous week to ask if there were some releases that were not appearing on the monthly reports. He said the answer is yes there were a couple of releases that did not occur until later in the month and therefore would not be included until the following month. He reported the municipal releases would be implemented into the database starting October 1, 2000.

Gary Priebe asked if the report for the municipal releases would include location and a brief summary and, if possible, could the manure spill report contain the same information.

Discussion followed about the type of information that the Commission would want on these reports.

<b>INFORMATIONAL ONLY</b>
---------------------------

**ADOPTED AND FILED – AIR QUALITY RULES CHAPTERS 22-25, UPDATES, REVISIONS, AND ADDITIONS.**

This item was pulled from the agenda.

The following people chose to address the Commission on this matter.

**SCOTT SMITH**

Scott Smith, Landfill Administrator/Recycling Coordinator at Boone County Landfill, said he would like to comment on behalf of Boone County, South Central Iowa Solid Waste Agency, and members of Iowa Society of Solid Waste Operations, about a section of the proposed air quality rules. He said Item 19 contained three lines that may have a dramatic impact on how certain waste materials are dealt with in the State of Iowa. The proposed rule would prohibit the open burning of certain materials if the waste is collected through a local recycling program. Boone County government had not taken a position either pro or con relative to the banning of open burning of the items addressed through this rule change. However they do have concerns regarding the process through which this proposed rule change was developed, its underlying assumptions and the fact that those most impacted have not been asked for input.

He said, at this point, we do not know to what extent the ramifications of these three lines of proposed changes will have on cities and counties that currently permit the open burning of these wastes. Of particular concern is the fact that the proposed change in rules does not include any definitions. By not defining these issues as part of the rules adoption process, confusion or possibly unintended ramifications could occur. When asked last week to provide details as to how these rules would be implemented, staff had been unable to clearly define such issues as: what they would consider to be a “local recycling program;” how enforcement would occur; how the DNR would educate the public, cities and counties about these new rules; and how all this would happen prior to November 24, 2000. He said he had been told by staff that they may consider “local” to be as broad as the entire comprehensive planning area when examining recycling opportunities for leaves and grass clippings (regardless of distance.) This is a far more broad interpretation than the summary of the rules refers to as the “community” program. Mr. Smith said the staff was unsure when asked how these rules will be enforced since field inspection staff are already overburdened. Because the issue is not clearly defined it would place inspectors in a difficult position and lead to inconsistent enforcement.

On the behalf of Boone County, he asked the Commission to delay consideration of Item 19 of Agenda Item number 8 to provide adequate time for the Department to develop applicable definitions and to clarify the issues raised. He said he hoped the process would include additional public comment in order to determine the ramifications of this proposed change. He closed by saying he would like to stress this is a far more complicated and potentially costly change than would first appear based on the three simple lines contained in item 19. He felt that issues such as definitions, enforcement, infrastructure, and public education had not been thought through in a thorough enough manner and it cannot be realistically assumed that these issues can be adequately addressed before these changes go into effect on November 24<sup>th</sup> of this year.

**JIM ULVELING**

Mr. Ulveling, Director of the West Central Solid Waste Agency said his concern lay in how this rule change would affect local recycling programs and how West Central Solid Waste Agency would be able to handle it, therefore he was happy to hear that the Department would be delaying it for 30 days. He said it was his hope over the next month there could be some input

from the State Organization on Solid Waste, the League of Iowa Cities, and ISAC, so that everyone could work together to improve air quality.

**KONNI CAWIEZELL**

Konni Cawiezell, Assistant Director of Governmental Affairs for the Iowa League of Cities said she would like to thank Mike Valde for the delaying of these rules. She said the League of Cities have some questions about adopting the Air Quality Program Rules, Chapters 22-25 specifically Item 19, because its affect on cities around Iowa. She stated the League was unaware of the Air Quality Bureau holding a public hearing regarding these rules, and it was their understanding that only those entities with air permits were notified of the hearing, therefore excluding the League. With the adoption of any rules affecting cities it is imperative that the League has the opportunity to survey their members and aid them in complying with new legislation. Because they found out about the change on Friday, and the effective date having been set for November 24, the League felt neither they nor the local communities would have had the opportunity to prepare for it. Ms. Cawiezell said since there are no definitions included in these rules it is hard for them to know what qualifies as a local recycling program. For their cities recycling includes anything from drop off programs to curbside pick up. She said that if the definition of local recycling were very inclusive many cities would have no choice but to dispose of lawn clippings and leaves without benefit of burning. She explained one city that burns yard waste once or twice a year would be forced to haul it 13 miles to the nearest landfill several times a year. Another city, which allows residents to burn anything that grows on their property because the local landfill does not allow yard wastes would be forced to haul these items well beyond the closest landfill for disposal. She said the hauling of yard waste could become an economic hardship to many smaller communities. She concluded by saying although they are aware of the importance of quality air, the League of Cities felt that Item 19 needs to be better addressed so that they could work with local communities to prepare them for this change.

<b>ITEM PULLED FROM THE AGENDA</b>
------------------------------------

Randall Gianetto arrived at 11:21 a.m.

**ADOPTED AND FILED – CHAPTER 40, 41, 42, 43, 83 – WATER SUPPLY AND ENVIRONMENTAL LABORATORY CERTIFICATION**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval is requested for adoption of the revised Public Drinking Water Supply Rules of IAC 567—Chapters 40-43 and the revised Environmental Laboratory Certification Rules of IAC 567—Chapter 83. The proposed rules were printed as a notice of intended action in the Iowa Administrative Bulletin XXII #25 on June 14, 2000.

The public drinking water supply and laboratory certification rules are being updated to reflect new EPA regulations as well as to make changes required by the EPA as a result of their review of the 1999 drinking water rule changes.

The rule amendments include:

- new and amended definitions;

- grammatical changes;
- analytical methodology updates;
- a disinfectants/disinfection byproducts rule, in accordance with EPA regulations;
- an interim enhanced surface water treatment rule, in accordance with EPA regulations;
- restructuring the operation permit fee rule to:
  - adopt a late fee of \$100.00 for systems which fail to renew their operation permits;
  - allow the director to increase or decrease the operation permit fee by \$0.02 per capita to meet the \$350,000 per year target without requiring EPC approval; and
  - streamline the rule;
- Allowing the use of third-party performance evaluation sample providers for drinking water laboratory certification.

Six public hearings were held to receive public input, one in each of the following communities: Atlantic, Des Moines, Manchester, Mason City, Storm Lake, and Washington. The public comment period was from June 14 through July 26, 2000. Only one rule comment was received, although the public posed related questions. The comment and related questions are discussed in the attached Responsiveness Summary. No substantive modifications of the amendments as proposed in the Notice of Intended Action are recommended, with the only recommended change being for the implementation sentence at the end of each chapter.

### **ENVIRONMENTAL PROTECTION COMMISSION (567)** **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission amends the following chapters: Chapter 40, "Scope of Division-Definitions-Forms-Rules of Practice," Chapter 41, "Water Supplies," Chapter 42, "Public Notification, Public Education, Consumer Confidence Reports, Reporting, and Record Maintenance," Chapter 43, "Water Supplies - Design and Operation," and Chapter 83, "Laboratory Certification."

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 14, 2000, as ARC 9888A. Six public hearings were held and one comment was received. The comment and other questions raised at the hearings have been addressed in the attached responsiveness summary. There are no substantive changes to the rules as published in the Notice of Intended Action. The only change is the implementation sentence at the end of each chapter to make it more specific for the chapter.

These rules will become effective on November 22, 2000.

The following amendments are adopted.

---

*Note: The text of the amendments is not being provided in the Commission agenda package due to the volume. Copies will be available at the Commission meeting or can be obtained by contacting the Water Supply Section of the Department.*

**August 31, 2000**

## RESPONSIVENESS SUMMARY

### Public Hearings & Written Comments

The following document constitutes a summary of comments received in response to public hearings and public dissemination of the water supply, operator certification, and laboratory certification rules, Iowa Administrative Code 567 Chapters 40-43 (455B), 81(455B), and 83 (455B). The existing Chapters 40, 41, 42, 43, and 83 were amended to reflect changes in the Environmental Protection Agency regulations over the past year, as a result of the 1996 Congressional Reauthorization of the Safe Drinking Water Act, as well as other technical and grammatical changes.

The five chapters (40-43, 83) were amended in consultation with an advisory committee consisting of approximately 40 representatives of professional/technical organizations, water utilities, and industry groups, which met in February and March, 2000. The five-chapter rule package was presented to the Environmental Protection Commission in draft form at the commission meeting held May 15, 2000. The rules were published in the Iowa Administrative Bulletin XXII, #25, on June 14, 2000.

The Environmental Protection Commission authorized six public hearings on the five chapters. These public hearings were conducted to receive final public response to the draft rules. The water supply hearings were held along with the operator certification hearings at each site concurrently, with the first hearing on the amendments to Chapters 40-43, 83 (water supply and environmental laboratory certification), and the second hearing on the amendments to Chapter 81 (operator certification). The hearing schedule was as follows:

<b>Date</b>	<b>Time</b>	<b>Location</b>	<b>City</b>	<b>Attendees*</b>
July 6	10:00	Auditorium Henry Wallace Building 502 E. 9th Street	Des Moines	26 (5)
July 7	10:00	Room 180A Muse-Norris Conference Center North Iowa Area Community College	Mason City	4 (2)
July 14	10:00	Helen Wilson Gallery Washington Public Library 120 E. Main	Washington	10 (2)
July 18	10:00	Conference Room Atlantic Municipal Utilities 15 West Third Street	Atlantic	4 (2)
July 19	10:00	Delaware County Community Center 200 E. Acres	Manchester	11 (2)
July 20	10:00	Hansen Room 8 Siebens Forum, Buena Vista University Fourth & Grand Avenues	Storm Lake	3 (3)
<b>Total (non-DNR, and each person only counted once)</b>				<b>52</b>

\*Top number is the number of non-DNR persons attending each hearing. Bottom number in parentheses is the number of DNR staff attending the hearings, including the hearing officers.

In the Total, each individual is counted once, and only non-DNR persons were included in the Total.

Notice of the public hearings was provided by electronic e-mail to the technical advisory group members, EPA Region VII, and parties who had expressed an interest in the rules. Notices were also published in the Iowa Association of Municipal Utilities June 2000, newsletter and the Iowa Section American Water Works Association Spring 2000 newsletter. Written comments to the five chapters were accepted through Wednesday, July 26, 2000, including comments that were postmarked that day.

Fifty-two members of the public participated in the public hearings, not including DNR staff. There were no written comments submitted, and one person submitted an oral comment during the public comment period. Hearing participants' questions were answered prior to and after each public hearing, for a total of five questions. The oral comment was received on Chapter 43. This responsiveness summary addresses the comment and all five questions. Each comment or question is followed by the name of the commentator, a discussion of the issue raised, and any DNR staff recommendation. In addition, the final implementation sentence of each chapter was amended by DNR staff to make it more specific to the chapter.

**PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY  
WATER SUPPLY RULES PACKAGE (IAC 567—CHAPTERS 40-43, 83)  
PUBLIC COMMENT PERIOD: JUNE 14 – JULY 26, 2000  
AUGUST 1, 2000**

<b>1. Comment:</b> {43.2(1)"d": operation fees}	<b>PWS</b>	<b>The \$350,000 received as a result of the annual operation fees was supposed to be used to add additional technical staff to the department, which the commentator did not believe had been done.</b>
Commentator:		Reed Craft, Waterloo Water Works
Discussion:		The \$350,000 (also see the discussion of Question 5) was required to be used in the administration account and the public water supply system account, divided equally at \$175,000 each. The Department has consistently allocated an equivalent of 2.5 full time staff positions to provide technical assistance. Currently, the number of staff allocated to providing technical assistance has increased to 3.5. In addition, the Department has contracted with technical assistance providers such as the Iowa Association of Municipalities, Kirkwood Community College, Iowa American Water Works Association, and the Iowa Rural Water Association to provide technical assistance to the regulated community.
Recommended Action:		None
<hr/>		
<b>2. Implementation Sentence Amendments</b>		<b>The final sentence in each chapter should be amended to make it more specific to that chapter.</b>

- Commentator: DNR staff recommendation, per rules task force directive
- Discussion: The amendments refer more specifically to the Code of Iowa and do not change the intent of any chapter.
- Recommended Action: Amend the last sentence in each of the five chapters as follows, using sequential Item numbers from the Notice of Intended Action:
- Item 110: Amend the final sentence in Chapter 40 as follows: These rules are intended to implement Iowa Code sections 17A.3(1)"b" and chapter 455B, division III, part I, 455B.171 through 455B.188 and 455B.190 through 455B.192.
- Item 111: Amend the final sentence in Chapter 41 as follows: These rules are intended to implement Iowa Code chapter 455B, division III, part I. Sections 455B.171 through 455B.188 and 455B.190 through 455B.192.
- Item 112: Amend the final sentence in Chapter 42 as follows: These rules are intended to implement Iowa Code sections 17A.3(1)"b" and 455B.171 to 455B.192. 455B.171 through 455B.188 and 455B.190 through 455B.192.
- Item 113: Amend the final sentence in Chapter 43 as follows: These rules are intended to implement Iowa Code chapter 455B, division III, part I. sections 455B.171 through 455B.188 and 455B.190 through 455B.192.
- Item 114: Amend the final sentence in Chapter 83 as follows: These rules are intended to implement Iowa Code sections 455B.113 ~~to~~ through 455B.115.
- 

**3. Question:** Will the interim enhanced surface water rule affect small systems, serving  
{43.9: interim enhanced surface water treatment rule}

Commentator: Mel Berryhill, Iowa Rural Water Association

Discussion: This rule only applies to large systems serving at least 10,000 persons, although a forthcoming federal rule will eventually require all surface water or groundwater under the direct influence of surface water systems to comply with similar requirements. This current rule, listed in rule 43.9, allows for the department to assign monitoring requirements to small systems if needed to bring them into compliance with the forthcoming rule. For example, where the system cannot meet the current rule in 43.5, and requires facility upgrades, they would be required to design the upgrades to meet the more stringent requirements.

Recommended Action: None

---

**4. Question:** What is the frequency of the total organic carbon monitoring, as part of the  
{43.6(2)"b"(1): routine disinfection byproduct precursor subrule} monitoring for TOC}

Commentator: John Elliott, Council Bluffs Water Works

Discussion: According to 43.6(2)"b"(1), the routine monitoring for total organic carbon is one paired set of samples per month per plant at the time of normal operating conditions

and influent water quality. A paired sample set is one raw source water sample and one treated water sample, which are collected at the same time.

Recommended Action: None

---

**5. Question:** **What is the definition of enhanced softening?**  
{40.2: definition of "enhanced softening"}

Commentator: John Elliott, Council Bluffs Water Works

Discussion: The definition is listed in 40.2, as follows: "Enhanced softening means the improved removal of disinfection byproduct precursors by precipitative softening."

Recommended Action: None

---

**6. Question:** **Where did the \$350,000 targeted revenue figure originate, and what is the +/- \$0.02 per capita fee adjustment?**  
{43.2(1)}

Commentator: Reed Craft, Waterloo Water Works

Discussion: The \$350,000 targeted revenue figure originates in the Code of Iowa, 455B.183A(2)(b) Water quality protection fund, which states:  
"2. The commission shall adopt fees as required pursuant to section 455B.105 for permits required for public water supply systems as provided in sections 455B.174 and 455B.183. Fees paid pursuant to this section shall not be subject to the sales or services tax. The fees shall be for each of the following:

a. The construction, installation, or modification of a public water supply system. The amount of the fees may be based on the type of system being constructed, installed, or modified.

b. The operation of a public water supply system, including any part of the system. The commission shall adopt a fee schedule, which shall be based on the total number of persons served by public water supply systems in this state. However, a public water supply system shall be assessed a fee of at least twenty-five dollars. A public water supply system not owned or operated by a community and serving a transient population shall be assessed a fee of twenty-five dollars. The commission shall calculate all fees in the schedule to produce total revenues equaling three hundred fifty thousand dollars for each fiscal year, commencing with the fiscal year beginning July 1, 1995, and ending June 30, 1996. For each fiscal year, one-half of the fees shall be deposited into the administration account and one-half of the fees shall be deposited into the public water supply system account. By May 1 of each year, the department shall estimate the total revenue expected to be collected from the overpayment of fees, which are all fees in excess of the amount of the total revenues which are expected to be collected under the current fee schedule, and the total revenue expected to be collected from the payment of fees during the next fiscal year. The commission shall adjust the fees if the estimate exceeds the amount of revenue required to be deposited



in the fund pursuant to this paragraph."

The per capita fee adjustment by the department of plus or minus two cents is used to reach the targeted \$350,000 revenue figure.

Recommended Action: None

---

**7. Question:**  
{43.5 and 43.9}

**Which turbidity limits will be used on the operator certification exam – those in effect with the surface water treatment rule (43.5) or those in the new interim enhanced surface water treatment rule (43.9)?**

Commentator: Tim Frederiksen, U.S. Filter

Discussion: The current turbidity limits are 5.0 NTU and  $\leq 0.5$  NTU 95% of the time. The new limits are 1 NTU and  $\leq 0.3$  NTU 95% of the time. The current limits are in effect until January 1, 2002, for all systems. After that time, the surface water/influenced groundwater systems serving at least 10,000 persons will have to meet the new limits (1 and 0.3 NTU), while the surface water/influenced groundwater systems serving less than 10,000 persons must still comply with the current limits (5.0 and 0.5 NTU).

Recommended Action: No rule change is needed. Examine and amend, if needed, the operator certification exam question to ensure that it explicitly indicates which turbidity limit is being requested.

---

Mike Valde said this rule change had been brought before the Commission earlier as a notice of intended action, the notice was published and the Department held six public hearings around the state. He reviewed what the changes would be if approved. Mr. Valde said they did not include a copy of the rules in this packet because they had been included with the Notice of Intended Action.

Dennis Alt, Supervisor of Drinking Water Supply Section of the Water Quality Bureau, stated there had been 52 people who attended the hearings and received only one oral comment. All comments were in the form of questions regarding the implementation.

Rozanne King asked how the regulated people get a hold of the EPA regulations and know the changes are coming.

Mike Valde said they find out through associations that watch the federal regulations and the Department has the delegated program, which is a federal program to maintain our primacy. As federal regulations are implemented the Department has to adopt regulations that are equivalent to but no more stringent than the Federal regulations. Mike added that Dennis Alt works those regulated people through a task force to adopt the rules changes.

Dennis Alt said Iowa has up to two years to adopt a federal regulation, unless EPA goes to an early rotation schedule. Mr. Alt said the State works with a technical advisory group and then brings the rule changes back to a public advisory group. After that the State makes presentations to the people involved. For the last rule package they implemented the Department made 20 to 30 public presentations.

*Motion was made by Rita Venner to approve the rule change. Seconded by James Braun. Motion carried unanimously.*

**APPROVED AS PRESENTED**

Chairperson Terrance Townsend stated that because there were appointments set for item 10 of the agenda they would set it aside until the appointment time.

## **STATE OF IOWA PUBLIC DRINKING WATER PROGRAM – 1999 ANNUAL COMPLIANCE REPORT**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Department is submitting the State of Iowa Public Drinking Water Program 1999 Annual Compliance Report to the Environmental Protection Commission for information purposes.

The Safe Drinking Water Act (SDWA) Amendments of 1996 require the Department to issue an annual report of the SDWA violations in the state. This report fulfills the reporting requirement in Iowa for the 1999 calendar year, and is the fourth year an annual report has been prepared.

The data indicates that between 1998 and 1999 the number of health-based standards and major monitoring/reporting violations had decreased.

This report was prepared by the Department's Water Supply Section in the Water Quality Bureau of the Environmental Protection Division. Development of the report was accomplished through the use of the state water supply database.

The report was printed and distribution August 15, 2000. The report was distributed to all public water supplies listed in the report, Governor, legislative officials, EPA, and members of the SDWA Advisory Group. The report is available on the Department's web site and to the public upon request.

Mike Valde said the Drinking Water Report was handed out earlier that day, he reviewed the bulleted items from the item brief. He said a copy of the report would be given to the Governor, to the Legislature, and to EPA.

James Braun said the report states that the bacteria violations are typically due to poor sampling techniques. He asked what could be done to educate the public on prevention of contamination.

Dennis Alt stated whenever there is a violation that requires repeat sampling the Field Office will try to contact the public water supply and offer technical assistance, and will often times review the sample collection procedures. When the Field Office does a sanitary survey they will routinely go over the procedures with the operators. There is also a contract through Kirkwood Community College to provide technical assistance and training to operators.

James Braun asked what percentages of the drinking water problems were from ground water contamination or from poorly constructed well heads.

Dennis Alt said the majority of the positive readings they get on the routine samples are the result of using the wrong sample tap, poor sampling procedures, or from poor sanitation precautions. However repeat violations are usually caused from improper location of the wells, or poor construction or maintenance of the wells.

Rozanne King asked for Mike Valde or Dennis Alt to comment about the percentage still not in compliance as referred to on page three of the report.

Dennis Alt said it was very difficult to compare one year to another because weather conditions may have a lot to do with the number of positive readings in any given year.

Mike Valde asked how many public water supplies we have in the State of Iowa.

Dennis Alt stated there are approximately 2000 public water supplies.

<b>INFORMATION ONLY</b>
-------------------------

## **CONTRACT FOR SPACE TO REDUCE WALLACE BUILDING CONGESTION**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval is requested for a lease to provide space for the Water Supply Section and Field Office 5. The rental contract will have an annual fee of approximately \$185,000 based on 13,183 ft<sup>2</sup> of leased space and an initial rate of \$13.97 ft<sup>2</sup>. The lease will have a term of 5 years with the option to renew for another five-year term. This is a full service lease, with the cost of taxes; operation and maintenance built into the lease. In addition to a base rate of \$9.75 per square foot, operational costs are set at \$4.22 for the first year with a formula for pro rata cost distribution on an annual basis. The lease only allows for the recovery of actual costs. General Services negotiates leases for space, and under the Code of Iowa, they are the tenants even though DNR pays for and occupies the space. The new building is located on the southern edge of the downtown area across the river so staff working there will continue to be quite accessible.

The space is needed to reduce congestion in the Wallace Building and allow for space to accommodate current and anticipated vacancies. There are not enough vacant offices for positions already authorized. The Water Supply Section is undergoing some expansion as they manage the new program of revolving loan funds as well as continued expansion of Safe

Drinking Water Act program requirements. Pressure on existing space on the fifth floor of the Wallace Building comes primarily from several years of expansion of the animal feeding operations program and the water quality/TMDL efforts both of which are likely to be expanding in the future as well.

The Water Supply program was selected for the move on the basis of current and potential growth, the size of the current staff and their ability to pay for the costs of the move and continued operation. The Des Moines field office will be housed at the new location as well to achieve economies of scale and to avoid creating too many office locations within the Des Moines area.

Front end costs including furniture, communications and data processing capabilities, filing equipment, printers, copiers and a host of other needed equipment are currently being assembled. It has been estimated that these costs will be around \$500,000, but more precise figures are being generated. Office furniture is the main cost item. Retrofitted furniture will be required, for example, to provide power races along the bottoms of office wall panels. In the Wallace Building power connections are made through raceways located under the concrete floor.

The lease for the space is a standard lease, which was developed by General Services in conjunction with the developers of the space. Other departments such as the Dept. of Revenue, Public Health, Human Services and Information Technology will also share space in this building. The landlord provides a \$20 per square foot allowance for building the space to our needs including walls, electrical power, carpeting etc. This is like a carpet allowance for a new home. We are working to keep our costs for covered improvements within this allowance.

Assuming that the landlord is able to complete modifications to the space to suit our needs within about 60 to 90 days, we would anticipate use of this space prior to the end of the year.

Mike Valde informed the Commission if all of the positions that are currently open were filled there would not be enough office spaces to sit them in. He said there are many factors involved in solving a space problem, one significant factor is available funding. The State does not charge rent for the Wallace Building, however if anyone moves out of the Wallace Building the rent becomes the responsibility of the Department that has moved. A second consideration was the size of the section moving. They needed to find a division that was large enough to make a difference in the level of congestion. Currently the Environmental Protection Division has staff at the Wallace Building, at an office building on Hickman, and the field offices. Mr. Valde said they were anticipating eventually putting the Des Moines Field Office in the same office as Water Supply. General Services helped the Department in locating adequate office space. It will rent for \$13.97 a square foot per year and it includes a provision of \$20.00 per square foot to build in walls and finish it off. However after figuring the cost of completing the facility it was slightly higher than the \$20.00 agreed upon, so the Department was given the option of signing a seven-year lease as opposed to the original five-year lease, with the owner absorbing the additional cost.

Jim Brown explained process involved in deciding to move Water Supply staff to the new office. He informed the Commission that the new office would be located on SW 7<sup>th</sup> Street. He said in

addition to the cost of leasing they anticipated needing an additional \$500,000.00 cost for supplies and equipment. They are planning to move in around Thanksgiving.

Mike Valde said the office space is a single story building that will be completely occupied by State of Iowa employees.

Discussion followed regarding the current conditions in the Wallace Building.

*Motion was made by Rozanne King to approve the contract for space. Seconded by James Braun. Motion carried unanimously.*

**APPROVED AS PRESENTED**

### **AIR QUALITY BUREAU LEASE RENEWAL**

Jim Brown said in addition to the new office space to Water Supply the Department is also asking for the approval to renew the Air Quality lease that will cost \$9.81 per square foot per year for a duration of five years.

*Motion was made by Gary Priebe to approve the Air Quality Lease. Seconded by Lisa Davis Cook. Motion carried unanimously.*

**APPROVED**

The commission adjourned for lunch until 1:00 p.m.

Terrance Townsend reconvened the Commission at 1:00 p.m.

### **FINAL RULE – PHASE I, TRIENNIAL REVIEW, CHAPTER 61, WATER QUALITY STANDARDS.**

Commission approval is requested of the attached final rule adopting changes to Iowa's water quality standards. Those changes include: (1) modifications to the ammonia nitrogen criteria for aquatic life protection; (2) modifications to the descriptive basis for the Class C criteria; (3) allowance for consideration of total residual chlorine (TRC) demand in the mixing zone; (4) establishment of procedures for seasonal ammonia limits; (5) modifications to the critical low stream flows referenced in the standards; (6) modifications to the stream use designations for several waterbodies; and (7) modifications to the aquatic life criteria for aluminum, mercury, dieldrin, endrin, lindane, pentachlorophenol, silver and toxaphene.

Also attached is the Public Participation Responsiveness Summary summarizing and responding to comments received during the public comment period. Comments were received from twelve persons and organizations, with both support and opposition being expressed for various aspects

of the changes. The issues raised are discussed in the Responsiveness Summary. The proposed reclassification of a short reach of South Cedar Creek in Clayton County from a Class B cold water (CW) to a warm water limited resource (LR) water received considerable comment. Other issues of concern raised include numeric mercury criteria to protect wildlife, some aspects of the revised ammonia criteria; atrazine degradates, and nitrate criteria as it relates to nutrient levels in streams.

No changes are recommended from the published NOIA. It is anticipated that public comments will be made before the Commission regarding the reclassification of South Cedar Creek in Clayton Co.

(A copy of the rule is on file at the Department's Record Center.)

Mike Valde explained which changes were involved. He said they had several meetings of the Technical Advisory Taskforce and public hearings resulting in the item presented to the Commission. He said Jack Riessen and his staff had worked on this item extensively and would be able to provide the Commission with the technical criteria and what the objective of this rule is.

Jack Riessen said they had found another comment that had been submitted from the Iowa Farm Bureau, which in general supported the changes therefore, would have no effect on the outcome. In answer to the question of why the Department is adopting these water quality changes, Jack Riessen said there were a number of different reasons. He said the Clean Water Act states every three years a State is required to do a comprehensive review of the Water Quality Standards. The Department has also received some new criteria from the EPA. The Iowa Water Pollution Control Association hired a consultant to look at some phases of our Water Quality Standards and identified some needs or changes that needed to be done. The EPA was challenged in court in a case from Alaska. Alaska had adopted some Water Quality Standards changes, which EPA did not approve as they were supposed to. The court ruled that state water quality standards must be approved by EPA, or the standards are not effective. As a result of that decision EPA has stepped up their review of State Water Quality Standards. Therefore EPA has reviewed some of standards submitted in previous years; there were some deficiencies identified which are being addressed in this rule change. The Department was also acting in response to comments from the public and interest groups that requested them to look at certain issues. In addition, one of the major items that will be discussed is the South Cedar Creek in Clayton County. The Department received a request from the City of Garnavillo to reevaluate some of the stretches in their vicinity, which the Department completed and incorporated into this package.

Jack Riessen distributed a copy an excerpt of the Senate File 2371 that came to be known as the Credible Data Bill, which was passed this last session. Mr. Riessen stated that this bill says when the Department reviews its Water Quality Standards it is required to use credible data which is defined in the Senate File 2371.

In regard to the atrazine issue addressed by Susan Heathcote during Public Participation, Jack Riessen said, at this time there is no credible data that indicates atrazine has an acute effect therefore the Department has to go with what the best scientific data says.

In regard to South Cedar Creek Mr. Riessen said he would like to give the Commission a brief overview of what they do. In general there are four different items within the Water Quality Standards one being water body use – what is the water body currently being used for or what would it be capable of being used for with reasonable improvements in water quality. With the South Cedar Creek is a use designation for a class B aquatic life. In other words, what type of aquatic life is using the stream or would be capable of using the stream. He said if the Department is looking at assessing a stream for its class B use designation, they are really looking at four different sub classifications of class B. One is a general use, which is the fall back designation, if it is nothing else it is considered general use. A class B warm water significant resource is the best warm water stream designation, it is given to streams and smaller rivers with habitat that support a fairly wide variety of reproducing fisheries and aquatic insects. Next there is a Class B warm water limited resource, which is given to those streams that do not have as good a habitat and does not support as wide of a range of species. The last category is Class B cold water, which refers to the trout streams, one of the distinguishing factors for them are that they have cold water regimes.

He said when the Department goes out and does a use assessment, what they are looking at is, where does this stream fit into this general use classification system. He said they do not look at the pollution level as determining the population, they look at what uses could be made of that water. The ask questions such as it the habitat there, what is the temperature, is there overhanging vegetation?

Mr. Riessen said in the case of the section of South Cedar Creek in question, the Department has completed their assessment of the stream and has made their recommendation based on that assessment. He said the recommendation is for the northern portion of the stream to be changed to a class B limited resource stream, with a small portion north of the propose class B limited resource section to be classified as general use.

### **Dave Gibbs**

Dave Gibbs from Gibbs Engineering and Survey said he was here representing the City of Garnavillo. He said the concern he wanted to comment on was the reclassification of the portion of South Cedar Creek.

In 1995, the City of Garnavillo began evaluating wastewater facilities and permit limitations. Since construction in 1987 the treatment facilities in Garnavillo had been well operated and typically produce a very good effluent. Plant records for the last ten years indicate that almost all of the time the plant complies with CBOD, and suspended solids effluent limitations. In the last ten years the number of times the permit limits were exceeded amounted to about 1 to 2 percent of all the data collected.

Ammonia nitrogen limitations whether they were intermediate or final limitations were exceeded on a somewhat more regular basis, but the State and the EPA have been in the process of reevaluating the toxicity limits for ammonia and how ammonia water quality standards are applied to pipe effluence.

In 1996 the city estimated that it would cost over \$300,000 to upgrade the wastewater plant. He stated he did not believe there had been any fish kills since the plant has been built, however back in May of 1977, there was a fish kill on South Cedar Creek. The Department's fisheries staff evaluated the dissolved oxygen level and the stream that was upstream from the city's discharge had a dissolved oxygen level of zero. It was determined at that time that the fish kill had been caused by agricultural activities. He said that the City of Garnavillo suspects that if there are water quality problems today, more than likely they may be related to agricultural activities.

The city began to look at assumptions made in the waste load application or stream model. They did a tracer study on South Cedar Creek to look at the time of travel during low flow conditions and found out the assumption made in the water quality model by the Department was about the same as the tracer study that they conducted. He said the city spent the better part of 1997 doing extensive ammonia pH and temperature testing upstream and downstream of the plan out fall and determined that the natural uptake rate of ammonia was about four to eight times the factor assumed in the waste load model. Typical concentration sampled at the location of the Department put and take reach were less than 0.5 milligrams per liter, or less than 20% of the chronic ammonia limitation. The highest value for ammonia nitrogen at the trout stocking area was 1.2 milligrams per liter or only about 25% of the acute limit of 5.6 milligrams per liter. The data that was collected that year did not indicate any violation of water quality limits for ammonia.

Mr. Gibbs said the City of Garnavillo asked the Department why the cold water area was established all the way up to the north line of section 30 when they had seen no evidence of any trout fishing occurring in that upper segment. He said they were told that this was a convenient landline and that there were apparently no assessments made at the time as to where the limits of the cold water boundaries really were.

In 1997 the regional supervisor out of the Manchester hatchery did a fish study and temperature survey of South Cedar Creek. Their findings, according to a letter received by the City of Garnavillo, were "during the periods of viable temperature recordings, daily maximums were frequently in the 70 degree Fahrenheit range and daily minimums were often in the 50's to low 60's. This is very indicative of a stream that is marginally cold water. There was no data collected indicating any presence of natural reproduction of trout. The Department biologist indicates that an estimate of the upper limit of the potential trout use would be approximately the middle of section 30.

In 1997 the City of Garnavillo reviewed the 'Catchables Trout Stocking Guide' from the Big Springs hatchery that indicates a stocking quota for South Cedar Creek of 3200 trout, only about 2% of the total stocking in Northeast Iowa. Mr. Gibbs stated although the stocking quotas vary from year to year this information indicates that South Cedar Creek is not one of the premier trout streams in Northeast Iowa. Stocking of South Cedar Creek is often stopped in mid June to mid July and resumed in September due to high temperatures in South Cedar Creek. He said this again indicates that South Cedar Creek does not have the most ideal conditions for cold water classifications.



The Department conducted an assessment of a portion of South Cedar Creek proposed to be reclassified and indicates that aquatic populations and habitat were indicative of B limited resource waters. He said the City of Garnavillo requests that the Commissioners declassify the upper portion of South Cedar Creek.

Discussion followed regarding the availability of State and Federal funds to assist in the upgrade of the City of Garnavillo's wastewater treatment facility.

### **Steve Veysey**

Steve Veysey, President, Hawkeye Fly-Fishing Association addressed the Commission on the reclassification of South Cedar Creek. He said he had sent cover letter and some graphs to the Commissioners regarding this issue. He used overheads to demonstrate the location of the testing that his organization conducted. He referred to an aerial photograph done by Geological Survey. The stream is represented a solid blue line indicating that it is a perennial stream, therefore, he said South Cedar Creek is not an ephemeral stream as Mr. Riessen indicated. He said his organization did a lot of temperature and biological measurements at various sites above and below the point of discharge. Above the point of the discharge, the two points they studied showed macroinvertebrates indicative of high quality water including a lot of mayflies, caddis flies, scuds, etc. However below the point of the discharge they found mostly pollution tolerant aquatic worms, midge larva, and pouch snails.

He said the Garnavillo Waste Treatment Facility is rated at a .19 million gallons per day and they are averaging .18, which is 92% of capacity. This being the average, this facility often goes over its permitted discharge limit as well as ammonia, therefore, it is not just a permit problem, therefore the solution has to be for a pollution problem. He reviewed some of the methods used by other treatment facilities.

He said they measured stream flows up in the area of the discharge facility and it showed to be about 3 cubic feet per second. The discharge flow is .6 cubic feet per second, which translates to .18 million gallons per day, which is a 5 to 1 dilution.

He said the three cell aerated lagoons are not a good treatment mechanism for ammonia, and when EPA raised its ammonia requirements it created some problems for some municipalities. However to suggest that the stream is not being impacted is wrong. To say that there is marginal impact at the put and take section totally ignores the rest of the stream which would never be classified general use, because it is not ephemeral, it has established flow of cold water documented history, it has meandering, it's the level of the local water table, all of which are the characteristics of a class B cold water stream.

He said the only way that these three cell lagoons can discharge into a waterway is if it general use because they cannot get below 5 to 8 parts per million of ammonia, the technology is not sufficient. Unless the stream is classified general use, they cannot discharge at all. He asked if this was the way that we want to drive this process.

James Braun asked what was the source of the stream above the brewery.

Mr. Veysey answered it was spring fed above the brewery.

Mr. Braun asked if the spring ran continuously yearly.

Mr. Veysey answered that the local people have said that it was. He said his organization has looked at a number of tributaries that come into the stream and although they are not all spring fed a lot of them are. There is a very good riparian zone that can handle normal conditions when there is not an occurrence of a manure spill or runoff. He said when the use designation for a stream is changed the EPA requires a use attainability assessment to be performed. He said the Department has not done that and in fact does not have the protocol for doing that assessment. He said he knew the Department staff says it is within their prerogative to proceed with a designation change without a petition for rulemaking request. However he said that he is bothered that the City of Garnavillo worked with some DNR people behind the scenes and agreed to change the designation and never submitted a petition for rulemaking. He said the reason we have the requirement in Iowa law for petitions for rulemaking is to protect the rights of the citizens, the landowners and other interested parties.

James Braun asked Mr. Veysey if they had done any water temperature testing.

Mr. Veysey said they had and the results were summarized on the mail he had sent out to the Commissioners. He went on to say the mortality temperature for trout is 81 degrees, and the temperature that they measured in June and the second week in July were all in the mid sixties or lower. He said the DNR's temperature testing was done all at one spot at Jigsaw Road.

Lisa Davis Cook asked Mr. Veysey where his organization got the numbers for the ammonia and treatment flow charts.

Mr. Veysey said anyone can get that information off the web at a site called EPA Envirofacts if you have the permit number, which is available through The Department of Natural Resources, Environmental Protection Division's web site.

### **Rick Nugent**

Rick Nugent, a landowner near South Cedar Creek, said he said he spoke to the Commission in March or April of 2000 and even brought a sample of water to show them what was occurring in the stream. He said he did not receive any information from Mr. Turkle about the change in designation being proposed. He said the stream over the last 10 to 12 years has deteriorated to the point that you can no longer swim in it. He said there are algae blooms, the bottom of the stream is carpeted in a brown dead layer, which is not just from agriculture. He said what is up stream is the effluent and that is what he believes is really destroying the stream. He said that if the Commission approves the redesignation of the stream the waste treatment system would stay exactly the way it is.

James Braun said as he read through Item 10 he wondered why there were not two agenda items, he asked if the commission would consider breaking the item up and voting on the South Cedar Creek issue separately.

*Motion was made by James Braun to pull the South Cedar Creek issue from the item ten and vote on Chapter 61 water quality standards rulings. Seconded by Randall Gianetto.*

Discussion followed regarding the exact wording of the motion to pull this item.

James Braun amended his motion.

*Motion was made to approve Item 10 with the exception of 186,187, and 187a. Seconded by Randall Gianetto.*

Lisa Davis Cook had a question about the issue of atrazine, she asked how many birth defects would it take for atrazine to be labeled an acute problem.

Jack Riessen said when the Department adopts water quality standards we have to use credible data. There is no scientific data that supports an acute rating. He said they are using the data supplied to the Department from the EPA.

James Braun said Mary Skopec is doing a study on water quality for nutrient loading and pesticides in our state. He said she might have information regarding this matter in time for the next meeting. Mr. Braun asked if the Commission would like to wait until she could address them before a decision is made on item 10.

Kathryn Murphy said we have to go with the data that is available right now.

Jack Riessen said the purpose of Item 10 is to set standards for drinking water that say atrazine should not be over 3 parts per billion. He said the crux of this issue on atrazine is what should that standard be. He said it was the same with the South Cedar Creek, it is not about the city of Garnavillo and whether or not they are meeting the wastewater standard, it is about what physically is that creek capable of supporting with reasonable improvements in wastewater treatment or any other water quality issue.

James Braun said he does not like to lower a water quality standard and he feels that is what they are doing by relabeling atrazine from acute to chronic.

Kathryn Murphy clarified that Jack Riessen has said it was mislabeled as acute.

Ralph Turkle explained the reasoning behind initially labeling atrazine as an acute standard. The Department has been told that as part of the triennial review process that atrazine is not an acute criteria and the Department has been asked to be consistent in their description of criteria.

Vote was taken on the previously mentioned motion.

*Motion carried unanimously*

**APPROVED AS AMENDED**

Rozanne King asked if the Commission does not vote to reclassify the South Cedar Creek would it stay the same as it has been in the past.

Ralph Turkle said if the Commission does not take action South Cedar Creek would remain under its current designation. He said the Department has given their perspective on this issue but the ultimate decision is up to the commission.

Mike Valde suggested that Ralph Turkle should explain to the Commission exactly what he looks for when he visits a body of water.

Ralph Turkle said they use a standard protocol that has been developed to assess the biological community that the streams can support. What the Department will typically look at when assessing a stream, is the current fish population and the physical habitat that is important to support the fisheries. The assessment protocol attempts to establish weights or points for good fish population, good physical habitat and good flow regime that correspond to the classifications of a significant resource, limited resource, or cold water resource. When they did the study on South Cedar Creek last October, it was beautiful, the water was running clear, they took a backpack shocker and hiked about a mile and shocked a good diverse population of fish. However the stream was very narrow and shallow. There were a few pools, but there were also some high rock ripples and rock drops. These physical features along with the population they found told Mr. Turkle that this stream has a limited ability to support fish and invertebrates. He said looking at fish population that they found there, the type of physical features, this stream and its populations was very similar to the other limited resource designations with the exception of a little bit cooler temperatures. This is why the DNR concludes from looking at physical habitat, the fisheries, and the flow regime that this should be a limited resource designation.

Rozanne King asked if there was any comparison data from before the time that Garnavillo started the effluent.

Ralph Turkle said he did not but in his observations he did not see any lingering effects from the affluent. The fish that were in the stream were very healthy.

Discussion followed regarding the history of the designation of the South Cedar Creek.

Jim Braun said the Commission has been trying to decide what percent of the water quality problems are coming from agricultural runoff and what part is coming from municipalities. According to the charts supplied by Mr. Veysey, there is a municipality that is consistently exceeding legal ammonia rates. He said he knew that hog farmers or cattle producers would not be allowed to continue these types of operations. He said he believed a decision needed to be made as to when the Department will need to go after all pollution sources. The problem is going to be the money it will take to start cleaning up all of these problems that we have. However if the Department is going to go after livestock industry and farmers, we will also have to go after the other pollution sources as well. He said he did not think if the City of Garnavillo had been able to meet their ammonia releases there would be any desire to reclassify that stretch of South Cedar Creek. He said he did not want an added burden to the City of Garnavillo or to any other small municipality but he also does not want to allow illegal discharges into our State's waters. He said he is concerned if the Commission agrees to give this stream the redesignation they would be telling the City of Garnavillo that they continue to discharge as they have been.

Chairperson Terrance Townsend asked if the Commission wanted to take any action on the South Cedar Creek or leave the designation as it is.

The Commission chose to take no action

Chairperson Terrance Townsend apologized to Vic Kane for running late for his 2:00 appointment.

### **PETITION FOR RULEMAKING – CITY OF OELWEIN**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

<b>Petition by City of Oelwein,</b>	
<b>for the Amendment of Subrule 61.3(5)“e”, p.91, relating to the water use designation of Lake Oelwein.</b>	<b>PROPOSED TEMPORARY DENIAL OF PETITION</b>

The City of Oelwein has requested that the Commission remove the current “Class A Primary Contact Recreation” use designation on the upper portion of Lake Oelwein. Currently the lake is designated as Class A and Class B(WW) Significant Resource in 567 61.3(5), Water Quality Standards. The lake is an on-stream impoundment of Otter Creek. The Class A use designation occurs from the dam, upstream to the north line of Section 33, T91N, R9W, Fayette County. The City of Oelwein’s wastewater treatment facility discharges in a small stream several thousand feet upstream of the upper portion of the lake. Effluent disinfection is currently required to comply with the Class A use bacterial criterion. The city requests that the beginning of the Class A designation be moved to a line 1900 feet south of the present line, or 1650 feet north of the west end of the dam, thereby removing the upper portion of the lake from Class A designation.

The proposed request would continue to maintain the Class A use designation in the areas of the lake where swimming (the only allowed class A use) is occurring, such as the small unimproved beach area. The City has enacted a “no wake” restriction for boating, which in effect precludes water skiing and jet skiing.

The request for removal of the designation is made for the following reasons. First, removal of the Class A designation from the upper portion of the lake would relieve the city of the requirement that its wastewater treatment plant effluent be disinfected prior to discharge into Otter Creek, upstream of Lake Oelwein. Second, the city believes that removal of Class A designation would allow them to operate the wastewater treatment plant as a Reliability Class II facility (per IDNR Design Standards 14.5.1.b and 14.5.3.2), thereby eliminating the need to increase the size of a stand-by generator used to power the wastewater treatment plant aeration basin blowers. Third, and most relevant, they effectively assert that the Class A designation of the upper portion of the lake is not appropriate because none of the water uses in that portion of the lake meet the definition of “primary contact” use, which is the Class A criterion. They contend that sediment deposition and loading patterns, and a “no-wake” ordinance passed by the city, have effectively eliminated primary contact use in that area. They also contend, based on fecal coliform studies performed by the city, that there is a buffer distance in excess of 400 feet between the proposed new Class A boundary (1900 feet south of the present line) and the calculated fecal die off zone for plant effluent in the lake. According to the city, this would

provide effective protection to any primary contact uses that occur south of that line at, for example, an unimproved campground beach located there. The city submitted, as supporting documentation, results of analytical tests performed by Keystone Laboratories, Inc., as well as other related letters and documents.

## **DEPARTMENT RESPONSE**

### **Legal Background**

Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission to promulgate rules relating to the water quality standards. The Commission has done so at 567 IAC 60-61.

Subrule 61.3(1) provides that all waters of the state are classified for protection of beneficial uses. These classified waters include general use segments and designated use segments. Pursuant to subrule 61.3(2) all surface waters, including general use and designated use waters, at all places and at all times, are protected for livestock and wildlife watering, aquatic life, noncontact recreation, crop irrigation, and industrial, domestic, agricultural and other incidental water withdrawal uses not protected by the specific numerical criteria of sub-rule 61.3(3). Narrative criteria are established to protect these general uses.

Paragraph “b” of subrule 61.3(1) provides that designated use segments are water bodies which maintain flow throughout the year, or contain sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community of significance. Designated use waters are to be protected for all uses of general use segments in addition to the specific uses assigned. Stream segments may be classified for more than one designated use. Designated use segments include among others:

(1) Primary contact recreation (Class “A”). Waters in which recreational or other uses may result in **prolonged and direct contact with the water, involving considerable risk of ingesting water in quantities sufficient to pose a health hazard**. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing.

(5) Significant Resource Warm Water (Class “B(WW)”), “Waters in which temperature, flow and other habitat characteristics are suitable for the maintenance of a wide variety of reproducing populations of warm water fish and associated aquatic communities, including sensitive species.”

Lake Oelwein is currently classified as “A” and “B(WW)”, pursuant to subrule 61.3(5), paragraph “e” [p. 91, #46]. The request of the city is to remove the Class A designation from the upper portion of Lake Oelwein, by moving the beginning of the Class A segment to a line 1900 feet south of the present line, or 1650 feet north of the west end of the dam.

Pursuant to subrule 61.3(3), paragraph “a”, the specific water quality criteria for Class “A” waters are:

(1) From April 1 through October 31, the fecal coliform content shall not exceed 200 organisms/100 ml, except when the waters are materially affected by surface runoff; but in no case shall fecal coliform levels downstream from a discharge which may contain pathogens to humans be more than 200 organisms/100 ml higher than the background level upstream from the discharge.

(2) The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

With respect to the classification of a water body as “A”, the following additional definitions in rule 60.2 apply:

*“Primary contact”* means any recreational or other water use in which there is direct human contact with the water involving considerable risk of ingestion of water or contact with sensitive body organs such as the eyes, ears and nose, in quantities sufficient to pose a significant health hazard.

*“Secondary contact”* means any recreational or other water use in which contact with the water is either incidental or accidental and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, commercial and recreational boating and any limited contact incidental to shoreline activity. This would include users who do not swim or float in the water body while on a boating activity.

*“Water contact recreational canoeing”* means the type of activities associated with canoeing outings in which primary contact with the water does occur. This would include users who swim or float in the water body while on a canoeing outing.

### **Commission Precedent**

In 1991 and 1992, the Commission addressed Class A use designation issues relating Big Creek in Henry County. More recently, earlier this year, it addressed these issues in the Flint Creek Petition from Des Moines County. In both matters the Commission determined that the department needed to establish clear criteria for determining Class A use designations for water bodies that are not clearly used for swimming and water skiing type activities. The department is currently engaged in the process of developing criteria to evaluate the Class A type of uses for smaller Iowa streams and other water bodies. Staff projects that a proposal for this will be developed by November of this year.

### **Conclusion**

Although this case is not precisely on point with the Big Creek and Flint Creek matters, we feel that it would be best to wait until the criteria and procedure for evaluating smaller water bodies for Class A type designations are developed, which will be relatively soon.

As an additional comment, we feel the consideration should be restricted to whether a stream meets or does not meet the Class A criteria. Although removal of the Class A designation from the upper portion of the lake would relieve the city of the requirement that its wastewater treatment plant effluent be disinfected prior to discharge into Otter Creek, upstream of Lake Oelwein, and would allow the city to operate the wastewater treatment plant as a Reliability Class II facility (per IDNR Design Standards 14.5.1.b and 14.5.3.2), thereby eliminating the need to increase the size of a stand-by generator used to power the wastewater treatment plant aeration basin blowers, we believe that a determination of whether Class A designation is appropriate for the upper portion of Lake Oelwein should be based on a consistent and approved methodology, rather than specific short-term economic benefits.

For the above-stated reasons, the department declines to initiate rulemaking proceedings on this subject at this time, but will engage in a more in-depth consideration of the issues involved and present proposed criteria and methodology to the Commission in November. We will proceed with Class A use determinations after that, in accordance with the direction of the Commission, and commit to prompt evaluation of Lake Oelwein using an approved methodology.

### **Vic Kane**

Vic Kane, from the City of Oelwein handed a map of the area he was planning to discuss. He said the city is looking to do the \$3,500,000 expansion to their waste treatment facility mainly due to flow violations. In the midst of their conversation with the DNR the possibility of changing the lake designation came up, mainly because about two years ago the city turned the lake into a no wake.

He said the standards they are meeting were all set up because in the past the City of Oelwein's lake was a meeting place for many people. In changing the lake to a no wake lake it removed the primary contact from the lake. He said there is still a little bit of swimming although it is not recommended due to liability reasons.

For that reason they have set the proposed designation area above the areas where there is occasional swimming activity. He said the city has had a couple of fecal violations and the Department is proposing that the City of Oelwein upsize the contact chamber which will cost around \$100,000. They also run about \$19,000 per year in chemical and maintenance with the current facility.

Therefore, they thought it would be negligent not to pursue the possibility of changing this designation. He said the carp population is very healthy and as far as he knows there are not any good fish in the lake. The main reason he is aware of for the Class A designation was because of the primary contact.

He said the City of Oelwein is currently required to meet an 880 fecal count above the start of the lake. What they are asking, due to the fact that there has been a change in the use of the lake, is to bring the designation-point further into the lake to give the city more of a mixing area.

He said they have worked hand in hand with the Department to see what they needed to do to show them that this could be done safely. Mr. Turkle with the DNR did some calculations and



showed the City where the designation-point would be. They have ran dye testing to see what the water flows were and they have taken fecal testing, unchlorinated, to see what they would be releasing during this time of the year and the most they have come up with is 140,000 fecal count leaving the plant.

The calculations done by the DNR were ran on a 1,000,000 fecal count and the City of Oelwein added 500 feet buffer to the that designation-point which still keeps them above the residences.

Rozanne King asked where the boundaries were for the current class A designation.

Mr. Kane showed the Commission on the map indicating the very top of the lake.

Rozanne King asked about the possibility of dredging the lake.

Mr. Kane said the city tried to dredge at one time but it silted back in, so they have been doing some work with the DNR. He said the city would like to make it a big camping and fishing facility, so the DNR has come in and done some shocking, they have tried stocking fish but nothing seems to be taking. He said he wanted to stress the fact that they are not asking because they cannot meet the current limits, they are asking because the lake is no longer being used for the purpose it was originally designated for.

Discussion followed regarding the testing that the City of Oelwein and the regulations for colony forming units of fecal chloroform.

Mike Valde explained the item and the reason for the temporary denial of the petition. He said the primary reason for the denial is to wait until the Department of Natural Resources develops the process and the evaluation criteria for the classification of the Class A waters, which is scheduled to come before the Commission at the November meeting.

*Motion was made by Rozanne King for the temporary denial of the petition. Seconded by Gary Priebe. Motion carried unanimously.*

**APPROVED TEMPORARY DENIAL OF THE PETITION**

**PETITION FOR RULEMAKING – CAROL H CHESTERMAN**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

<b>Petition by Carol H. Chesterman, for the Amendment of Subrule 61.3(5)“e”, p. 102, relating to the water use designation of South Fork Catfish Creek.</b>	<b>PROPOSED TEMPORARY DENIAL OF PETITION</b>
---	--

Carol H. Chesterman has requested that the Commission reclassify the upper reach of South Fork Catfish Creek as “Cold Water Aquatic Life (B(CW))”. Currently the stream is designated as a “Limited Resource Warm Water (B(LR))”, from its mouth to the confluence with an unnamed tributary in the SW ¼ of Section 3, Township 88 North, Range 1 East, Dubuque county (above the petitioners property), in 567 61.3(5), Water Quality Standards. The request for reclassification is asserted to be made to protect a population of brook trout, reintroduced into the stream by the department’s Manchester Trout Hatchery in 1999 and 2000, as part of the put-and-grow program. Petitioner states that he initiated this petition in response to an adjacent landowner’s (Thunder Ridge Subdivision, Peosta) submission of an application to the department for a wastewater discharge permit. The petitioner maintains that the plant will release effluent directly into the trout stream, thereby damaging the aquatic environment. The petitioner submitted, as supporting documentation, maps of the area and correspondence detailing the results of the DNR Fisheries water temperature study, performed by Bill Kalishek, Fisheries Biologist at the department’s Manchester office.

**DEPARTMENT RESPONSE*****Factual Background***

The portion of South Fork Catfish Creek under consideration was designated as B(LR) Warm Water in 1992, after department staff conducted a field use designation assessment focused on determining what aquatic populations existed, or potentially existed in the segment. At that time, no effort was made to assess the potential for reintroduction of cold water species. In 1992, it was found that the upper reach did support a viable aquatic population worthy of Class B(LR) protection. In 1998, Fisheries staff began considering the upper reach for a potential Class B(CW) designation. They placed a recording thermometer in the stream on June 26, 1998 and monitored water temperatures through December 1, 1998. Staff found that based on water temperature, the stream represented an excellent cold temperature regime very suitable for brook and brown trout. The Bureau noted that other factors, including the quality of the water and the amount of hiding places could make survival difficult. They proposed a two-year experimental study, stocking trout fingerlings in the spring and sampling the fish population in the fall or following spring. The Fisheries Bureau recommended that if after two years a good survival rate was confirmed, the stocking program could be continued and they would recommend that the stream reach be reclassified. The first year of the study, using brook trout

fingerlings, showed very poor results. This year's stocking involved a 50/50 mix of brook and brown trout. Evaluation will be done next spring. The Fisheries Bureau indicates that without some basic improvements in the surrounding land practices and potentially upstream controls, the physical features of the creek are very marginal to support the desired populations. Excessive bank erosion along the reach is contributing larger than normal quantities of sediment, filling the few riffles and pools. In order to reestablish the normal pool/riffle features very important in supporting a healthy trout population, a buffer strip would be needed. The strip would allow for more meandering of the small channel, creation of more riffle/pools, and significantly reduce localized sedimentation.

A residential subdivision, with 55 single family lots and 84 condominium [4 dwelling units each] lots is being developed in the vicinity [SW ¼, section 2, T88N, R1W, Dubuque County], which will have centralized water and sewer service. The department issued a construction permit for the sanitary sewer system in January 1998, for water supply well No. 1 in July 1998, and for a wastewater treatment facility for the domestic waste of phase 1 of this subdivision, in November 1999. A proposed NPDES discharge permit for this facility was issued in June 2000, and public notice of the proposed discharge was made. Mr. Chesterman's comments objecting to the issuance of a discharge permit, and the Petition for Rulemaking were then received in July.

Because of the current B(LR) classification, the facility will have stringent limits for ammonia nitrogen. The system to be constructed is a "Sequencing Batch Reactor [SBR], which is designed to meet the limits established. It is not expected that reclassification to B(CW) would impact the project significantly.

### **Legal Background**

Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission to promulgate rules relating to the water quality standards. The Commission has done so at 567 IAC 60-61.

Subrule 61.3(1) provides that all waters of the state are classified for protection of beneficial uses. These classified waters include general use segments and designated use segments. Pursuant to subrule 61.3(2) all surface waters, including general use and designated use waters, at all places and at all times, are protected for livestock and wildlife watering, aquatic life, noncontact recreation, crop irrigation, and industrial, domestic, agricultural and other incidental water withdrawal uses not protected by the specific numerical criteria of sub-rule 61.3(3). Narrative criteria are established to protect these general uses.

Paragraph "b" of subrule 61.3(1) provides that designated use segments are water bodies which maintain flow throughout the year, or contain sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community of significance. Designated use waters are to be protected for all uses of general use segments in addition to the specific uses assigned. Stream segments may be classified for more than one designated use. Designated use segments include among others:

(2) Cold water aquatic life (Class "B(CW)"). Water in which the temperature, flow, and other habitat characteristics are suitable for the maintenance of a wide variety of cold water species, including nonreproducing populations of trout and associated aquatic communities.

(6) Limited Resource Warm Water (Class "B(LR)"), Waters in which flow or other physical characteristics limit the ability of the water body to maintain a balanced warm water community. Such waters support only populations composed of species able to survive and reproduce in a wide range of physical and chemical conditions, and are not generally harvested for human consumption.

The segment of South Fork Catfish Creek at issue in the petition is currently classified as "B(LR)", pursuant to subrule 61.3(5), paragraph "e" [p. 102, #151].

Pursuant to subrule 61.3(3), paragraph "a", the specific water quality criteria for Class "B" waters that apply to South Fork Catfish Creek are:

(1) Dissolved oxygen. Dissolved oxygen shall not be less than the values shown in Table 2 of this subrule (see Attachment 1)

(2) The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

(3) General chemical constituents. The specific numerical criteria shown in Tables 1, 2, and 3 of this subrule apply to all waters designated in subrule 61.3(5). The sole determinant of compliance with these criteria will be established by the department on a case-by-case basis. Effluent monitoring or instream monitoring, or both, will be the required approach to determine compliance.

1. The acute criteria represent the level of protection necessary to prevent acute toxicity to aquatic life. Instream concentrations above the acute criteria will be allowed only within the boundaries of the zone of initial dilution.

2. The chronic criteria represent the level of protection necessary to prevent chronic toxicity to aquatic life. Excursions above the chronic criteria will be allowed only inside of mixing zones or only for short-term periods outside of mixing zones; however, these excursions cannot exceed the acute criteria shown in Tables 1 and 3. The chronic criteria will be met as short-term average conditions at all times the flow equals or exceeds either the seven-day, ten-year flow or any site-specific low flow established under the provisions of subrule 61.2(5).

3. The human health criteria represent the level of protection necessary, in the case of non-carcinogens, to prevent adverse health effects in humans, and in the case of carcinogens, to prevent a level of incremental cancer risk not exceeding 1 in 100,000. Instream concentrations in excess of the human health criteria will be allowed only within the boundaries of the mixing zone.

(4) The waters shall contain no substances in concentrations which will make fish or shellfish inedible due to undesirable tastes or cause a hazard to humans after consumption.

(5) Temperature.

1. No heat shall be added to interior streams or the Big Sioux River that would cause an increase of more than 3 C. The rate of temperature change shall not exceed 1 per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 32 C.

2. No heat shall be added to streams designated as cold water fisheries that would cause an increase of more than 2 C. The rate of temperature change shall not exceed 1 per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 20 C.

With respect to the classification of a water body as “B(LR)” and “B(CW)”, the following additional definitions in rule 60.2 apply:

“*Acute toxicity*” means that level of pollutants which would rapidly induce a severe and unacceptable impact on organisms..

“*Chronic toxicity*” means that level of pollutants which would, over long durations or recurring exposure, cause a continuous, adverse or unacceptable response in organisms.

“*Human health criteria*” means that level of pollution which, in the case on noncarcinogens, prevents adverse health effects in humans, and in the case of carcinogens, represents a level of incremental cancer risk of 1 in 100,000. The numerical criteria are based on the human consumption of an average of 6.5 grams of fish and shellfish per day by a 70-kilogram individual for a life span of 70 years.

“*Mixing zone*” means a delineated portion of a stream or river in which wastewater discharges will be allowed to combine and disperse into the water body. The chronic criteria of 567—subrule 61.3(3) will apply at the boundary of this zone.

“*Seven-day, ten-year low stream flow*” means the lowest average stream flow which would statistically occur for seven consecutive days once every ten years.

“*Temperature*” means a measure of the heat content of water.

## Conclusion

We suggest that consideration of reclassification should be restricted to whether the stream meets or does not meet the Class B(CW) criteria, as discussed above. Petitioner raises the issue of an adjacent property owner’s application for a NPDES Permit, and seeks this

reclassification to protect the newly stocked trout community from plant discharges that Petitioner believes will be harmful. However, we request that the decision to reclassify the stream be based only on the technical findings of Fisheries' staff, that B(CW) criteria are met in the segment in question.

For the reasons discussed above, we believe the petition should be denied for now. Our Fisheries Bureau has not yet completed its two-year study and made a recommendation. At this point the evidence does not support reclassification. If the land practices change and adequate trout survival is documented, such that the Fisheries Bureau recommends reclassification at some point in the future, we can institute reclassification procedures at that point.

Mike Valde explained the petition and the reason for the temporary denial. He said the stream is currently classified as Class B warm water limited resource, the petitioner is asking to have it changed to Class B cold water because the petitioner believes the limits would be more stringent for the discharge of sewage. The stream has always been a limited resource, however two years ago the Department's Fisheries Bureau began an experimental program, where they introduced trout to see if they would live in it as a cold water stream. The first year did not go very well, they are in the middle of the second season and will not have the results until next spring. Therefore the Department is recommending temporary denial until the study is complete.

Discussion followed regarding whether or not the treatment facility being built will be able to meet the more stringent criteria if the stream is reclassified.

*Motion was made by Gary Priebe to approve the temporary denial of the petition. Seconded by Kathryn Murphy. Motion carried unanimously.*

<b>APPROVED TEMPORARY DENIAL OF PETITION</b>
--

## **DEMAND FOR HEARING – CLARK COUNTY; SWINE GRAPHICS ENTERPRISES L.P. (ADL IV)**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On August 17, 2000, the department issued Construction Permit No. CP-A2000-021 to Swine Graphics Enterprises, L.P., approving construction of three-cell anaerobic lagoon system and five confinement buildings to serve a swine confinement farrowing operation with 3,650 animals, including 2,968 gestating sows, 432 farrowing sows (with litters), 10 boars, and 240 gilt developers, with a design capacity of 1,434,100 lbs. live animal weight. Notice of this action was delivered to the Clarke County Board of Supervisors on August 18, 2000. On August 24, 2000, that Board notified the department by facsimile of its intent to demand a hearing, and the demand for hearing was mailed to the department on September 1, 2000. A summary of legal provisions and pertinent documents relating to the demand and the department's and/or permittee's response to it have been provided to the Commission.

The Commission is requested to review this matter and render a final decision by October 6, 2000, which is 35 days from the date the County filed a demand for hearing.

Mike Valde said the Department issued a construction permit to Swine Graphics to build a confinement operation in Clarke County, the statute provides the county gets notice and can comment, it also provides that the county can petition to have a hearing on the issuance of a permit.

Randy Clark said Clarke County demanded a hearing on the issuance on the construction permit as they are allowed to do. They listed a number of assertions in writing but did not request oral argument. The Department prepared a response for the various arguments and the permittee also responded. Most of the assertions made by the county were not accurate. The Departments position is, the conclusion reached by the staff, which was that the criteria of the statute and the rules were met therefore the permit should be granted, was the correct decision. The Department is asking that the Commission uphold that position.

Rita Venner asked if the County was aware of the time they wasted in asking questions that were irrelevant to the permit.

*Motion was made by Rozanne King to uphold the Department's decision. Seconded by Rita Venner. Motion carried unanimously.*

**DECISION UPHELD**

**PROPOSED CONTESTED CASE DECISION – DAVID THOMPSON**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On December 22, 1999, the department issued Administrative Order No. 1999-SW-21 to David Thompson. That action required Mr. Thompson to cease improper disposal of solid waste and to pay a penalty of \$2,000.00. That action was appealed by Mr. Thompson, and the matter proceeded to administrative hearing on May 31, 2000. The Administrative Law Judge issued the attached Proposed Decision on August 31, 2000. The decision affirms the Order.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mike Valde briefed the Commission on the history of the case.

The Commission took no action; this has the effect of upholding the Administrative Law Judge decision in the absence of an appeal.

**DECISION UPHELD**

**REFERRALS TO THE ATTORNEY GENERAL**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- a. Lester Holmes and Todd Holmes (Williamson) – penalty collection.

Mike Valde briefed the Commission on the history of the case.

*Motion was made by Kathryn Murphy for referral to the Attorney General. Seconded by Gary Priebe. Motions carried unanimously.*

**REFERRED**

**PILOT STUDY TO INVESTIGATE APPLICATION OF RADIO FREQUENCY IDENTIFICATION SYSTEM IN HAZARDOUS WASTE TRACKING PROCESS – CONTRACT APPROVAL**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The Department is requesting approval of the contract to conduct the pilot study listed in the topic above, with the Iowa State University. The contract is for \$13,855 and will be paid to Iowa State University according to standard terms and conditions between the two state institutes.

**Background**

Radio frequency identification (RFID), unlike bar codes, is a more robust technology in the sense that tags do not get damaged as easily and can be read in direct sunlight and other harsh environmental conditions. There is also the added benefit of being able to read and write data to the tags. For hazardous waste tracking, pertinent data can be stored on each tag such as contents and specialized handling instructions.

**Project Goals & Objectives:**



The scope involves the determination of information requirements for using radio frequency identification technology in enhancing the hazardous waste disposal process. Pilot tests will also be conducted to determine the suitability of this technology. Appropriate guidelines will also be prepared based on results from the pilot tests.

**Supporting Agencies:**

Iowa Department of Natural Resources

Iowa State University (covering the additional %36 indirect cost valued at \$4987)

At this time, the Commission is requested to approve the Department entering into a contract with Iowa State University to conduct the research project as described in the attachment.

Liz Christiansen briefed the commission on the above item. She said she felt it was an interesting idea and that she was very interested in seeing what its applicability was to the State. She said as the Barnwell site in South Carolina begins to shut down and reduce its acceptance of low level radiation waste we may have more and more material moving through the state of Iowa. To be able to have an automatic manifestation generated when that material enters our state, to track it along the route of transportation, and then have a final manifestation showing that everything that was brought in has left, will be very important to us. She informed the Commission that the funds for this project will be coming from our tonnage fees and are mainly for a graduate student to work under one of the staff in contaminated sites.

Discussion followed regarding the logistics of the proposed system.

Gary Priebe suggested the use of Global Positioning Systems (GPS) so the freight could be tracked anytime, anywhere in the state.

Liz Christiansen said the Department would look into the possibility of renegotiating the contract to include GPS and would bring it back to the Commission in October.

**GENERAL DISCUSSION**

Liz Christiansen said she would probably bring to the Commission the beginning of the Comprehensive Planning rules on white goods. They would also like to have someone here to present an update on a project for recycling at public events.

Rita Venner asked for Liz to comment on the Firestone situation.

Liz Christiansen said there was one company accepting those tires for recycling.

Terrance Townsend stated we have a request from Jennifer Ryan, with the Central Iowa Council of Government, who would like to be added to the October agenda to do a presentation on safe chemical management in schools.

James Braun asked Wayne Geiselman if A.O. Smith had been in contact with him.

Wayne Geiselman stated they had, and that they would be attending the next ACCO meeting.

James Braun said the Commission had planned to take up the proposal for rulemaking this month that was presented by the sixteen State Representatives, the Houser Proposal.

Mike Valde said he pulled the minutes from the June Commission meeting. They say that there was a motion by James Braun to deny the petition as stated but to commence a rule making process which initiates action for public hearing and rules addressing four things: manure management plans prior to construction, public notification, adjacency issues, and potential for fees. Seconded by Darrel Hansen. During the discussion it was asked when staff would be able to bring back a notice of intended action and it was decided that Wayne would meet with ACCO group in August and they would bring a Notice of Intended Action to the Commission in September. However when the issue went to ACCO it was tabled without specific recommendation.

#### **NEXT MEETING DATES**

October 16, 2000

November 20, 2000

December 18, 2000

#### **ADJOURNMENT**

With no further business to come before the Environmental Protection Commission, Chairman Townsend adjourned the meeting at 3:30 p.m., Monday, September 18, 2000.

---

Lyle W. Asell, Interim Director

---

Terrance Townsend, Chair

---

Rita Venner, Secretary



**INDEX****A**

Adjournment, 70

Adopted and Filed

Chapter 40, 41, 42, 43, 83 – Water  
Supply and Environmental Laboratory  
Certification, 39Adopted and Filed Emergency with Notice  
of Intended Action

Amendments to 567 – Chapter 135

Technical Standards and Corrective  
Action Requirements for Owners and  
Operators of Underground Storage  
Tanks, 9

Adoption of Agenda, 1

Air Quality Bureau Lease Renewal, 49

Amendments to 567 - Chapter 135

Adopted and Filed Emergency with  
Notice of Intended ActionTechnical Standards and Corrective  
Action Requirements for Owners and  
Operators of Underground Storage  
Tanks, 9

Annual Compliance Report 1999

State of Iowa Public Drinking Water  
Program, 46**Appointment****Dave Gibbs (South Cedar Creek), 51**

Steve Veysey (South Cedar Creek), 53

Vic Kane (**City of Oelwein**), 60

Approval of Minutes, 1

**B**

Budget Request for Fiscal Year 2002, 2

**C**

Call to Order, 1

Carol H Chesterman

Petition for Rulemaking, 62

City of Oelwein

Petition for Rulemaking, 57

Clark County

Demand for Hearing - Swine Graphics  
Enterprises L.P., 66

Commissioners Absent, 1

Commissioners Present, 1

Contract Approval

Pilot study to investigate application of  
radio frequency identification system in  
hazardous waste tracking process, 68

Contract for space to reduce Wallace

Building Congestion, 47

Contract Renewal Approval

Sustainable Development Consulting  
Services for the Iowa Capitol Complex  
Master Plan, 5**D****Dave Gibbs****Appointment (South Cedar Creek), 51**

David Thompson

Proposed Contested Case Decision, 67

Demand for Hearing

Clark County - Swine Graphics  
Enterprises L.P., 66

Director's Report, 2

**G**

General Discussion, 69

Grell Tire Pile Update, 11

**J**

Jim Ulveling

Public Participation (Air Quality  
Program Rules), 38**K**

Konnie Cawiezell

Public Participation (Air Quality  
Program Rules), 39**L**Lester Holmes and Todd Holmes  
(Williamson)

Referrals to the Attorney General, 68

**M**

Mark Lambert  
Public Participation (South Cedar Creek), 12  
Monthly Reports, 13

**P**

Petition for Rulemaking  
Carol H Chesterman, 62  
City of Oelwein, 57  
Pilot study to investigate application of radio frequency identification system in hazardous waste tracking process  
Contract Approval, 68  
Proposed Contested Case Decision  
David Thompson, 67  
Public Participation  
Jim Ulveling (Air Quality Program Rules), 38  
Konnie Cawiezell (Air Quality Program Rules), 39  
Mark Lambert (South Cedar Creek), 12  
**Rick Nugent (South Cedar Creek), 54**  
**Scott Smith ( Air Quality Program Rules.), 38**  
Susan Heathcote (Drinking Water Standard), 12

**R**

Referrals to the Attorney General  
Lester Holmes and Todd Holmes (Williamson), 68  
**Rick Nugent**  
**Public Participation (South Cedar Creek), 54**

**S**

**Scott Smith**  
**Public Participation ( Air Quality Program Rules.), 38**  
State of Iowa Public Drinking Water Program  
1999 Annual Compliance Report., 46  
Steve Veysey  
Appointment (South Cedar Creek), 53

Susan Heathcote

Public Participation (Drinking Water Standard), 12  
Sustainable Development Consulting Services for the Iowa Capitol Complex Master Plan  
Contract Renewal Approval, 5

**V**

Vic Kane  
**Appointment (City of Oelwein), 60**

**W**

Water Supply Rules  
Chapter 40, 41, 42, 43, 83  
Adopted and Filed, 39  
Environmental Laboratory Certification  
Adopted and Filed, 39